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A Journal of Political Thought and Statesmanship

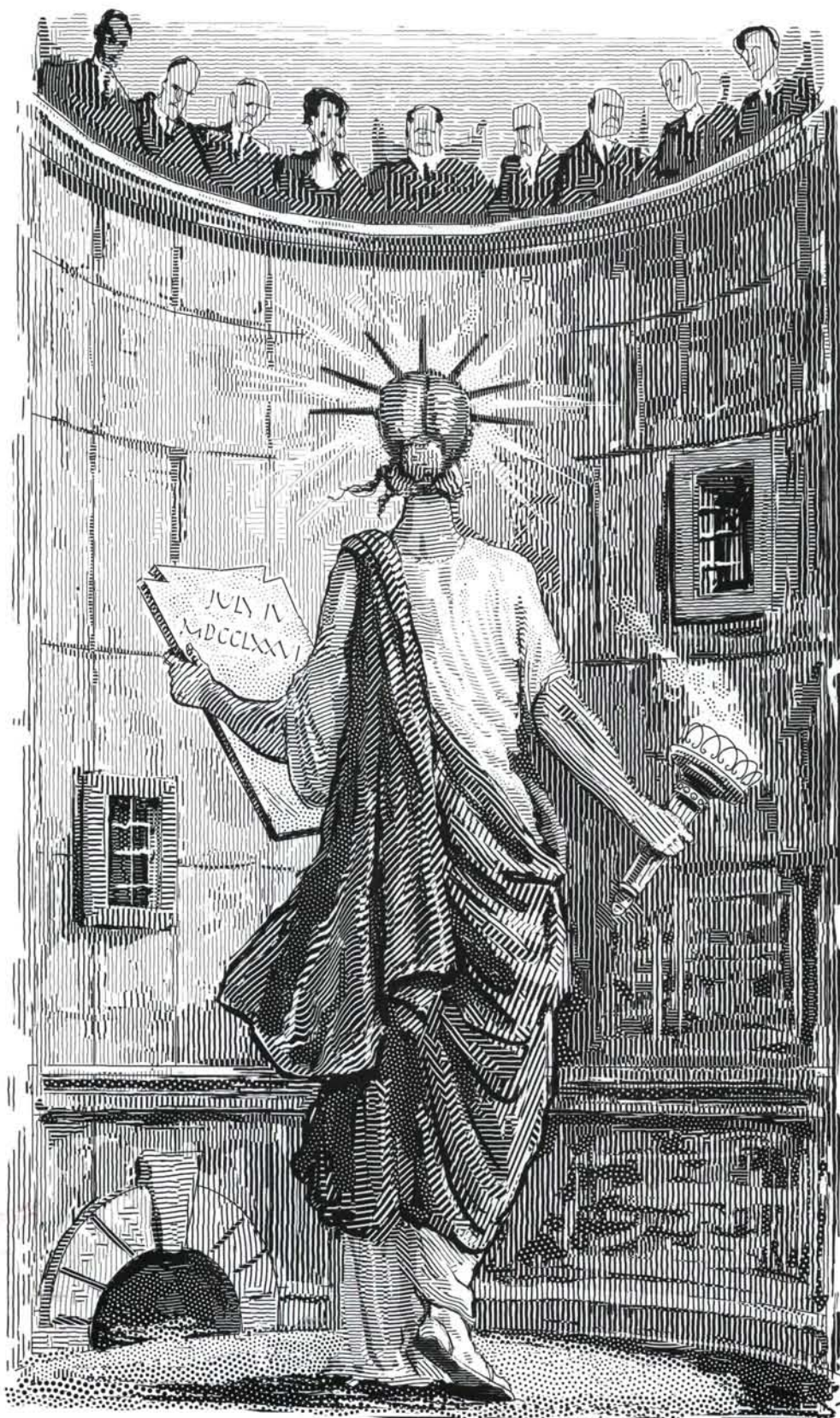
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by Michael M. Uhlmann and James R. Stoner, Jr.



PRICE: \$4.95

IN CANADA: \$6.50

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FROM THE EDITOR'S DESK

BUSINESS AS USUAL

by Charles R. Kesler

GEORGE W. BUSH IS THE FIRST PRESIDENT WITH AN MBA (FROM Harvard Business School, no less), but it's not clear that being a Master of Business Administration has made him a better Chief Executive. The disarray in Iraq, the debacle after Hurricane Katrina—these aren't exactly the kind of triumphs that the alumni office likes to boast about. Still, things could be worse. He might have gone to the Kennedy School.

Business schools are a relatively new institution: the MBA was invented in the Progressive Era as a way to abort future generations of robber barons. The idea was to train up a class of business administrators (the ethos was anti-entrepreneurial) who would expiate capitalism's sins by managing their corporations in keeping with the higher morality. The higher morality was whatever the spirit of the age revealed to professors and high-toned Protestant ministers. Over decades, the pursuit of ethical uplift waned and the pursuit of efficiency and new methods of reading a balance sheet waxed, paving the way for the increasingly empty trendiness of modern management books.

It's hard to say what President Bush absorbed from his management studies. We can only draw inferences, though eventually historians may know more. Defending Donald Rumsfeld a few weeks ago, Bush said, "I hear the voices, and I read the front page, and I know the speculation. But I'm the decider, and I decide what is best. And what's best is for Don Rumsfeld to remain as the secretary of defense." Being the decider-in-chief suggests one paradigm of modern management: the executive who makes the final decisions, the tough calls. He "hears" and even listens to others before deciding, but the point of a decision (from *decidere*, to cut off) is to be decisive—not to reason your way to a judgment that can be explained to others.

Bush's management style is long on decisions and short on explanations. He's apparently better at listening to others than questioning their views, which might seem to detract from his decisiveness. In other words, he prefers to have around him people whose judgment he trusts implicitly, even as he insists that they trust his implicitly. This isn't simple cronyism or "hackocracy," as the Left charges. But neither is it a model of political wisdom. It leads to a disinclination to deliberate, a reliance on peremptory assertions of subordinates' good character to quiet doubt about their judgments, and a certain habitual speechlessness. On ordinary rhetorical occasions, Bush and his text seem hardly acquainted.

On great occasions, he tends to overshoot the mark, calling for impossibilities like an "end to evil." He lacks a rhetorical mean, much less the rhetorical mien that served Ronald Reagan so well.

DEMOCRATS USUALLY TURN FOR INSPIRATION TO THE UNIVERSITIES and law schools, Republicans to business and business schools. Republicans love to call for applying the businessman's common sense to government problems, like balancing the budget or rebuilding New Orleans. Rumsfeld, a former Fortune 500 executive, is applying business methods (just-in-time inventories, information networks, strict control of labor costs) to try to transform the Pentagon and, while he's at it, win the war in Iraq. The precedents aren't entirely encouraging. In the 1960s, Secretary of Defense Robert McNamara tried to revolutionize the Pentagon using the systems analysis techniques he'd championed in his former job as president of the Ford Motor Company. He succeeded in discrediting himself, the techniques, and the war he was trying to win.

Pray things work out better this time. In general, however, the analogy between business and politics so beloved by Republicans is a flawed one. At the simplest level, politicians report to a large electorate and have fixed terms of office, and businessmen do not; and although the latter can hire and fire at will, the former cannot, and thus face vast, recalcitrant bureaucracies.

Second, government deals not merely with property, vital as that is, but also with life and liberty. Government thus involves issues of national defense, criminal justice, and other "involuntary transactions" backed up by a monopoly on the legitimate use of force. Third, though both pursuits involve self-interest, economic self-interest is less complicated. By contrast, there are many forms of political self-interest, frequently in conflict: Should you desire security, or glory? Low taxes, or a balanced budget? Much political skill must be devoted to persuading people where, exactly, their interest lies. (This is the rhetorical part, at which Bush doesn't excel.) Finally, and most significantly, politics has to reconcile multiple goals—consent, security, liberty, prosperity, justice, virtue—in the presence of continuing disagreements about both means and ends.

These inherent differences frustrate, eventually, all businesslike schemes of government. Too bad they don't teach that in business school.

Claremont Review of Books, Volume VI, Number 3, Summer 2006. (Printed in the United States on May 31, 2006.)

Published quarterly by the Claremont Institute for the Study of Statesmanship and Political Philosophy, 937 West Foothill Blvd., Suite E, Claremont, CA 91711. Telephone: (909) 621-6825. Fax: (909) 626-8724. Periodicals postage pending at Claremont, CA, and additional mailing offices. Postmaster send address changes to Claremont Review of Books Address Change, 937 West Foothill Blvd., Suite E, Claremont, CA 91711.

Unsolicited manuscripts must be accompanied by a self-addressed, stamped envelope; or may be sent via email to: crbedit@claremont.org.

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Art Director: Elliott Banfield

Publisher (1999-2001): Thomas B. Silver

Price: \$4.95 per copy; \$19.50 per one-year subscription, \$37.95 per two-year subscription; \$54.95 per three-year subscription. Add \$10 for all foreign subscriptions, including those originating in Canada and Latin America. To subscribe, call (909) 621-6825, or inquire via e-mail at: subscriptions@claremont.org.

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C O R R E S P O N D E N C E

IMMIGRATION AND ASSIMILATION

Victor Davis Hanson is to be commended for another outstanding analysis of America's de facto policy of "mass immigration without assimilation" ("France's Immigration Problem—and Ours," Spring 2006). His 2003 book *Mexifornia* puts the blame where it belongs, on the collusion of elites from the multicultural Left to the libertarian-corporate Right. Interestingly, both in France and in the United States, popular opinion is sounder than elite opinion. The majority of the French people stand with Interior Minister Sarkozy's "France: love it or leave it" approach and the majority of Americans prefer the House enforcement efforts to various McCain-Kennedy amnesty-lite proposals emanating from the Senate.

I propose three ideas for Professor Hanson to accept or reject. First, border enforcement only and no discussion of amnesty, guest workers, etc., for two years. After two years, if the border is secure, we could begin to listen to (but not necessarily agree with) different cheap-labor proposals. Second, instead of a one-time amnesty let us

try a methodical "attrition" strategy. This would require that we steadily and consistently enforce the law, particularly against employers. Over a period of time, the market will work, jobs for illegal aliens will dry up, and many will leave voluntarily. At that point, we should decide what to do with the remaining smaller number. Since the change would be gradual, the economy would not be unduly affected by a sudden elimination of cheap labor. It took years to reach the figure of 12 million illegal aliens; it might take years to get the number down. Moreover, immediate "mass deportation" is a phony scare tactic; it is not necessary, and no one is seriously suggesting it. But merely by enforcing the law, steady attrition over time could work.

My third proposal concerns patriotic assimilation. We must end the practice of American dual citizens voting in two countries. As Justice Felix Frankfurter wrote, "Taking an active part in the political affairs of a foreign state by voting in a [foreign] political election involves a political attachment and practical allegiance thereto which is inconsistent with continued allegiance to the United States."

John Fonte
Hudson Institute
Washington, DC

I am not surprised that Victor Davis Hanson cuts through the self-congratulatory rhetoric that Americans typically adopt when discussing immigration. Moreover, I find myself in broad agreement with his policy recommendations: especially his opposition to guest-worker programs, his rejection of proposals to deport the 12 million illegal immigrants in our midst, his consequent support for amnesty for those individuals—coupled with strong enforcement measures including increased enforcement

manpower, enhanced physical barriers at the border, sanctions on employers hiring illegal immigrants, and, finally, vigorous assimilation programs.

It is Professor Hanson's analysis of our immigration problems, on which those recommendations are based, that I strongly disagree with. Eager to draw instructive parallels between Muslims in France and Latinos in the U.S., Hanson paints with far too broad a brush. Indeed, given the questionable basis of his analysis, I wonder how much confidence he has in his own recommendations.

For example, despite his humane and prudent opposition to the deportation of millions of illegal immigrants, Hanson argues that those illegals live in "segregated communities" and "comprise an entire underclass without sufficient language skills, education, or familiarity with their host country to integrate successfully." Yet this is clearly not accurate. To be sure, many illegal immigrants—along with many legal ones—do not speak English and are poorly educated. But they hardly live in "segregated communities." The fact is that illegal immigrants live with and among legal immigrants. Many illegals are married to legal immigrants. Many others have children who are American citizens. In fact, of the 6.6 million households in which either the head or the spouse is an illegal (altogether totaling 14.6 million people), about one-third include at least one child born here in the United States. Such numbers are precisely why any deportation policy would be so wrenching.

Hanson also suggests that illegal status is a bar to intermarriage. Again, he offers no evidence. But this seems unlikely, since Mexican-origin individuals and Latinos generally are marrying outside their groups at rates comparable to those among European immigrants during the 20th century.

A final point relevant to Hanson's comparison with Muslims in France is his failure to mention the significant movement of Latinos here and throughout the Western Hemisphere away from Catholicism and toward evangelical Protestantism. Indeed, about one-fourth of U.S. Hispanics are now Protestants. Observers such as Samuel Huntington are not wrong to view this as a significant indicator of assimilation to American values. There is reason to believe this is how Latinos themselves see this shift.

The fact is that the United States remains a strikingly open and absorptive society—for illegal as well legal immigrants. Hundreds of thousands of illegal immigrants own their own homes. They are joining labor unions. Indeed, in Southern California they have been the backbone of a revived labor movement. Many illegal immigrants are graduating from our high schools and are now demanding reduced tuition to our public universities. Yet because many Americans are put off by the tone in which such demands are often made, we tend to overlook the good news about assimilation that lurks beneath the noise and controversy. Certainly, Hanson ignores these trends.

In his book *Mexifornia*, Hanson wrote of American popular culture's complicated impact on Mexican immigrants. On the one hand, it overwhelms the racial and ethnic boundaries that insulate Mexicans from the wider society. On the other hand, it does so by fostering and then pandering to crass appetites. Democratic culture is at work here, but not the sort that leads to broader civic awareness or engagement.

Hanson also seemed mindful in his book that assimilation is, as Norman Podhoretz once put it, "a brutal bargain" that is painful and wrenching for all involved. These negotiations are such that it is dif-

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difficult to predict how things will turn out, which is why Hanson is right to be concerned about signs of dependency among Mexican immigrants and their offspring. But some perspective is needed here. He is right that second-generation Mexicans have strikingly elevated high school drop-out rates—much higher than among American blacks. Yet the evidence is that this pattern reflects an eagerness to go out and join the workforce, indicated by the high labor-force participation rates among young Mexican-Americans.

But though single-parenthood and male delinquency and crime rates are higher among Mexican-origin individuals than native Anglos, these figures are still much lower than among black Americans. That may be faint comfort, but the fact is that the jury is still out on Mexican-American social and economic mobility. Most observers have found that while there is progress from immigrant parents to their offspring, it is less than what we saw with European immigrants during the 20th century.

The final twist about assimilation is one that Hanson points to in his article, but then ignores. It concerns our unreasonably high expectations for immigrant mobility. As Hanson puts it, “near-instant parity for all is taken to be the only benchmark of success.” But when Hanson himself notes with concern that “less than 10% of [Latinos in California] over 25 have bachelor’s degrees,” he too seems guilty of exaggerated expectations—especially since only about one-third of native whites over 25 complete four years of college.

I appreciate Victor Davis Hanson’s effort to engage the immigration issue without sentimentality. But his realism seems to cut in one direction more than the other. His concerns about illegal immigration are broad and exaggerated, but also inattentive to the fact that much of what troubles him about illegal is true also of legal immigrants.

Peter Skerry
Boston College
Chestnut Hill, MA

In this season of massive urban marches demanding (often with Spanish-language signs) the unlimited right to violate U.S. immigration law, Victor Davis Hanson provides an illuminating and unflinching exploration of the topic. The fast-growing population of a linguistically and socially alienated underclass is less menacing, he concedes, than the violence-prone French Muslim neighborhoods. But he takes seriously the *reconquista* sentiments still heard from Hispanic ethnic chauvinists in the Southwest, and has a special talent for making visible the dead-end outcomes awaiting so many, the aging as well as the high school drop-outs, in the illegal underclass. Hanson, with deep roots in the Central Valley, is a restrictionist and a pro-immigrant one. His policy recommendations are 90% sound—no guest-worker programs, resolute border control, interior workplace enforcement, and deep distaste for yet another amnesty. Yet he also suggests an increase in Mexican visas to 100,000 a year—a special deal for one country that will stir up demands for similar favoritism for Canada, perhaps also the Philippines and post-Castro Cuba, and lead us back onto the trail of national origins discrimination that we were so proud to repudiate in 1965. But 90% is an A- grade for Professor Hanson, and on making sense about the future of the American Southwest he has no peers.

Otis L. Graham
University of California,
Santa Barbara
Santa Barbara, CA

The prolific Victor Davis Hanson’s commentary never fails to arouse, but does it truly inform? Hanson is concerned that the United States might yet come to resemble France in hosting an angry, unassimilated, and anti-establishment ethnic minority with dire consequences for American civic culture and identity. To bolster his case and your fears, Hanson cites the fantasies of “the radical agenda

of the most vocal ethnic separatists” and the remarks of a few minor California officials. They see southwestern America as part of Mexico, and our Mexican-Americans, as Mexican first, and American, if at all, decidedly last.

By all means, let us expose and block these pernicious assaults on our civic culture. But let us not confuse a small minority with the majority. The larger question is how to foster an emotional attachment to this country. America has traditionally made the bet that it could leverage immigrant self-interest into genuine attachment. It has won this bet in large part because Americans demanded it and government, civic organizations, and industry supported it. No longer. Cheap labor trumps civic tutoring. Adding potential voters trumps concern with American national identity. Civic organizations encourage and fund “home” country identifications in the name of “welcoming,” and making new immigrants feel at home—their former home—while living here. Foreign governments are quick to see the benefits of having hundreds of thousands of their nationals become American citizens, send home their earnings, and establish a beachhead for the home country’s policy preferences.

Political leaders of both political parties, from the president on down, stand mute before this crisis, either unaware or unconcerned. Securing the border is a crucial step; so is immigration law enforcement. But to avoid France’s fate we will have to have a real public discussion about immigration and our national identity.

If not, we will devolve into two countries, but not the haves versus the have-nots about whom Mr. Hanson worries. Rather, the country will be divided into a smaller core that maintains its emotional connections to the country for more than instrumental reasons, and a large group who are in it, essentially and primarily, for what they can get.

Stanley Renshon
City University of New York
New York, NY

Mr. Hanson’s account of the negative connotations surrounding the term “La Raza” is mistaken. The term refers to all the peoples who have spoken Spanish since the time of the Spanish Empire, but is now less popular for obvious reasons. It doesn’t really refer to a race but to a cultural group that includes many races.

I don’t see how Mexican immigration, legal or illegal, is going to cause the same tensions that Muslim immigration has in France. All I see is hard-working people whose children try desperately to integrate, many times at the cost of forgetting the Spanish language. Groups such as MEChA don’t seem to me representative of the vast majority of immigrants. When you visit California you see Americans (many of whom also speak Spanish). As with any new group of immigrants, there are some tensions and anger at being considered different. But after a few generations, they are integrated and proud of being Americans. The Muslim religion and culture, on the other hand, are obstacles to integration in any Western country. The Catholicism of Mexican immigrants is not.

Angeles Martinez de Carvajal
Holly Springs, NC

Victor Davis Hanson replies:

I appreciate John Fonte’s characteristically insightful suggestions. I agree that border enforcement must precede all other deliberations. As for his second proposal, our government *did*, in fact, once employ his notion of “attrition.” At least, that seems to have been what those green “migra” vans of my youth were doing as they scoured the countryside for illegals. But I fear that if such patrols returned to catch the unwary, we would drive the rest even deeper into the shadows. My own sense is that allowing illegal aliens to stay while applying for citizenship is a useful bargaining chip in winning a closed border. And I agree that dual voting, which encourages conflicted loyalty, should be eliminated.

Peter Skerry should spend some time in California towns like Parlier, Mendota, San Joaquin, or Orange Cove, then persuade us that those places are not apartheid communities.

He confuses the issue of assimilation in regard both to my CRB essay and to what I outlined at greater depth in my book *Mexifornia*. The problem is not that assimilation of illegal aliens per se has failed, but that the pool of illegals is now so large (and growing each year) that a permanent underclass of individuals remains without English, legality, or education. In theory, if the problem is not to exist in perpetuity, we would have to assimilate hundreds of thousands each year in order to outpace the hundreds of thousands arriving annually from Mexico. For each illegal alien who advances beyond a "dead-end" job, another arrives—unlike the large 19th-century influxes, which were periodic rather than unending, not to mention largely legal. I don't think it reveals an "exaggerated expectation" to lament that four out of ten Hispanics of all statuses, legal or not, first generation or third, are not graduating from high school; that one-fourth of illegal-alien households in California are currently on public assistance; or that 15,000 illegal aliens are in California penal institutions alone.

Prof. Skerry also doesn't consider the pernicious effect of illegal immigration on the Mexican-American community at large. When legal and illegal immigrants wrongly become conflated, strange things happen, such as offering affirmative action to new arrivals on the theory they have experienced historical discrimination by virtue of being from Mexico. (Apparently quite unlike, say, recent legal immigrants from the Punjab.) Even more Orwellian, we extend affirmative action to upper-middle-class Hispanics, supposedly to redress statistical ethnic imbalances in income and education—theyself skewed in part because of the huge presence of illegal aliens.

I thank Otis Graham for the A-. I offered the figure of 100,000 legal

entrants from Mexico each year as a supposition. It is far smaller than either the present illegal influx or the number often mentioned in the proposed guest-worker program. Reasonable people can debate the right numbers once the idea of legality has become established. That being said, I think criteria other than family ties such as education levels, knowledge of English, and specialized skills should matter for admittance to the U.S.

I'm not sure where Stanley Renshon disagrees with my argument, since his concerns echo my own about the social and cultural consequences of a large population of unassimilated illegal aliens, whose otherness tends to serve the particular interests of the Mexican government, worker-short employers, and ethnic tribalism. By assimilation I mean not only the acceptance of the values of American society, but a belief in its exceptionalism, past, present, and future. When an illegal alien becomes lawful, obtains a high school diploma, speaks English, and accepts the protocols of American culture—and hundreds of thousands do—the Mexican government usually loses a source of cash, the employer a low-paid, hard-working plum picker or cement layer, and the Chicano activist a victimized constituent in need of some sort of collective redress. The present system, after all, did not emerge in a vacuum, or without supporters.

As for Ms. Carvajal's remarks, imagine the following inversion: "*Angeles Martinez de Carvajal's negative connotations for the term 'the Race' are mistaken. It doesn't really refer to a (white) race but to a cultural group that includes many races (German, English, Dutch, etc.)*." I suspect that should there appear a white lobbying group with the appellation "National Council of the Race," an appalled Carvajal would be the first to reject just the sort of sophistry she employs here.

I agree that most Mexican immigrants eventually do assimilate, especially when they come legally and in moderate numbers. So I challenge Carvajal to support a proposition in which in exchange

for allowing most illegal aliens to stay while they seek citizenship, she would agree to close the border, thus precluding a further influx of hundreds of thousands. Such a willingness would dispel the suspicion that there are, in fact, quite an influential group of Mexican and Mexican-American activists who find the sheer numbers of illegal aliens conducive either to their own political agendas or to some reassuring romance about the emergence of a mythical Aztlán. As I said, the present system did not emerge in a vacuum.

RECLAIMING THE COURTS

Richard E. Morgan has written one of the most straightforward, bold, damning, and courageous explanations of how the Rehnquist Court failed to do its constitutional duty to interpret the Constitution in the manner authorized by the American people themselves; and in particular, how Justices O'Connor, Kennedy, and Souter continued the unbridled judicial arbitrariness of Chief Justice Warren and Associate Justice William Brennan ("The Failure of the Rehnquist Court," Spring 2006). Through his brilliant doctrinal analysis, Morgan has rendered a signal service to those of us in the academy who still care about the Constitution and the rule of law. He ends his piece with a plea directed at Justices Alito and Roberts to ignore what might be said about them by the *Harvard Law Review* or the *New York Times*, and, instead, to set about the task of recapturing the Constitution's original understanding as an expression of popular will rather than a license for judicial legislation.

Given Justice Kennedy's expected tergiversations as he succeeds O'Connor as swing justice, however, real change in the Supreme Court will not happen until Justice Stevens retires (the smart money believes this will happen soon) and is replaced by a

justice closer to Scalia or Thomas (whom Morgan quite properly calls "superb")—say, for example, Edith Jones from the Fifth Circuit, the choice of right-thinking Federalist Society members, *Wall Street Journal* editorialists, and judicial conservatives.

Should President George W. Bush have the courage to make that pick (which his father eschewed in favor of the disappointing Souter), the Senate Democrats led by Charles Schumer, Edward Kennedy, and Patrick Leahy will attack Judge Jones or someone like her as possessing an improper "judicial ideology" and being "out of the mainstream" of contemporary jurisprudence. If there is a fault in Morgan's piece it is his failure to address this issue.

The notion of "judicial ideology," which surfaced in the hearings held by Senator Schumer during the brief period when the Democrats controlled the Senate in June 2001, was apparently the brainchild of law professors Cass Sunstein (then of the University of Chicago, most recently at Harvard) and his colleague, Harvard Law Professor Laurence Tribe. Sunstein and Tribe advised the Democrats to argue that the Courts always ought to have a "balance" of judicial ideologies, and that it was important to make sure that believers in the "original understanding" school of constitutional jurisprudence were "balanced" by those who adhered to Justices Warren and Brennan's notion that the Constitution was a "living document," the meaning of which changed as Justices reconceived it in line with the changing needs of a dynamic society. This was a rhetorical masterstroke, inasmuch as "balance" always sounds good, suggesting restraint, temperance, and wisdom. Alas, however, "balance" in this context is misleading and amounts to the "balancing" of right and wrong, an enterprise in which we should never be engaged.

Edith Jones, or someone like her nominated to replace a retiring Justice Stevens, will need the support of a slowly increasing group of

scholars such as Professor Morgan who understand the true needs of the rule of law and of constitutional government itself. Their work in combating such result-oriented advocates of judicial activism as Sunstein and Tribe will determine whether the Court will return to the framers' conception of constitutional interpretation and republican self-government, or whether we can expect another generation of judicial usurpation of the people's sovereignty.

Stephen B. Presser
Northwestern University
School of Law
Chicago, IL

Richard E. Morgan makes a persuasive argument that the Rehnquist Court utterly disappointed conservatives who expected that a newly invigorated constitutional jurisprudence would roll back the excesses of the Warren and Burger Courts. In many ways, the Rehnquist Court extended the reach of liberal jurisprudence in such notoriously bad cases as *Planned Parenthood v. Casey* and *Lawrence v. Texas*. Despite this massive failure to reclaim the Constitution, Morgan still seems cautiously optimistic about the possibility of a conservative revolution on the Court. "Conservative constitutionalists," he writes, "are deeper intellectually and tougher politically than they were 20 years ago." Morgan doesn't say who these "constitutionalists" are, but presumably they include the Supreme Court's newest appointments, Chief Justice Roberts and Justice Alito. Yet nothing in their confirmation hearings suggested intellectual depth or political toughness, though each proved adept in the technical niceties of constitutional law. Both will probably drift to the left of Justices Scalia and Thomas, though precisely how far leftwards is impossible to predict. Neither is likely to demonstrate intellectual prowess when it comes to articulating and defending constitutional principles—the only appropriate ground for a conservative

constitutional revolution. Their jurisprudence seems to agree with that of Robert Bork: the Constitution is a procedural document indifferent to ends or purposes; it is merely a text without principles and must be understood, above all, as an expression of positive law.

On one crucial issue, Morgan agrees with the liberal constitutionalists. He writes that it is a "myth" that the 14th Amendment commands "colorblind policy." For more than 20 years leading liberal scholars have labored to prove that Justice Harlan's dissent in *Plessy v. Ferguson* was wrong-headed. After all, if he were right and the 14th Amendment required a colorblind legal system, then there would be no room for racial set-asides and quotas.

The framers of the 14th Amendment frequently said that the amendment was an attempt to complete the principles of the founding, to bring the Constitution at least into formal harmony with the principles of the Declaration. Color-conscious policies such as affirmative action treat an accidental feature of the human person—race—as if it were an essential feature. If rights can be conditioned by race, then "equal protection of the laws" has no meaning, because the rule of law will encompass the arbitrariness of race. The 14th Amendment's guarantee of equal protection—understood as equal protection of equal rights—should be the mainstay of any conservative jurisprudence. It is the fundamental principle of the rule of law itself.

Edward J. Erler
California State University,
San Bernardino
San Bernardino, CA

Richard E. Morgan replies:

There is no one working in the field of constitutional studies today from whom words of praise are more welcome than Steve Presser.

To Ed Erler I can only say, with the greatest regret, that he is wrong. The historical 14th

Amendment did not embody Justice Harlan's principle of colorblindness, although I have never doubted that it *should* have. It is something approaching a national tragedy that it has not been added to the Constitution by amendment, replacing the 14th's radically deficient and equivocal provisions. Instead, the Supreme Court has been left to wing it, re-engineering the equal protection clause again and again, attempting to explain why you can discriminate on the basis of race in some situations but not in others.

DEBATING INTELLIGENT DESIGN

I am puzzled by my friend Harry Jaffa's objection to my *Wall Street Journal* essay on Intelligent Design, since I agree with his central argument: there is "nothing in Darwinian theory that excludes the possibility that natural selection is the means by which God created the species" ("Who Owns the Copyright to the Universe?" Spring 2006). Evolution rules out the possibility that God created each species one at a time but it does not rule out the possibility that God designed natural selection, infused mankind with a soul, or presides over an afterlife.

My objection to Intelligent Design is not that no Designer could exist, but that the advocates of Intelligent Design produce false arguments to support that Designer's existence. Their argument is that some biological phenomena display such "irreducible complexity" that evolution could not have produced them. As teams of biologists have shown, this is false. I.D. proponents are entitled, as is everyone else, to believe in God, but they are not entitled to create a misleading test of His existence. I doubt that I am "behind the curve" on this matter, since the National Academy of Science and the American Association for the Advancement of Science have all said the same thing.

As the federal court in Pennsylvania showed in its lengthy opinion

in *Kitzmiller v. Dover*, I.D. supporters repeatedly argue that facts prove God's existence and thus evolution must be wrong. The court struck down the school board's requirement that I.D. be taught, on the grounds that this rule violated the First Amendment's Establishment Clause. I have some trouble with how courts interpret that clause, and no doubt Professor Jaffa does as well, but the clause, amply if sometimes weirdly supported by many Supreme Court decisions, governs public schools.

I tried in my essay to distinguish between two meanings of the word "theory." In one case, a theory is a scientific prediction that can be tested by facts. In the other, a theory is an assertion based on faith or speculation. Darwinian evolution is a theory in the first sense, one that is amply supported by facts even though it cannot say very much about the existence of God. Intelligent Design is a theory in the second sense. Its advocates, like the Discovery Institute, wish "to defeat scientific materialism" and replace it with "the theistic understanding that nature and human beings are created by God." (I quote from the Discovery Institute's "Governing Goals.")

It is true that a debased and incorrect view of evolution was once used to allege that blacks are inferior. But a debased and incorrect view of religion has also been used to support dictatorial regimes. Evil exists, and we must defend human dignity against it. And even evolution can teach us something (but not everything) about what is good. Our human experience leads us to acquire a moral sense even if we are neither religious nor scientific.

James Q. Wilson
Pepperdine University
Malibu, CA

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Harry Jaffa asks "Who Owns the Copyright to the Universe?" and suggests it probably isn't the federal government, much less a low-level district judge in Harrisburg, Pennsylvania.

Last winter, Judge John Jones ruled that mentioning Intelligent Design in the Dover, Pennsylvania, science classroom was impermissible. Many assume the ruling merely protects Darwin's theory of evolution from faith-based challenges in that school district. But the Supreme Court settled that issue 19 years ago. Judge Jones reached much further. He and men like James Q. Wilson insist that nature provides not "a shred of evidence" for design, and then set about denying students and teachers the freedom to discuss voluntarily not only design arguments in biology, but even design arguments that appeal to the Big Bang or the fine tuning of the laws of physics.

Intelligent Design is much broader than biology. I.D. holds that some features of the natural world are best explained by reference to an intelligent cause rather than to purely material causes. The idea stretches back to ancient Greece and has been updated by 20th-century discoveries in physics, cosmology, information theory, and the information revolution in biology. New evidence has reinvigorated it, and that's why some who oppose the idea want to minimize discussion of it. What's the solution? Don't mandate Intelligent Design. Don't label it a thought crime. Prof. Jaffa has the right prescription: mandate intellectual freedom.

Jonathan Witt
Discovery Institute
Seattle, WA

In his thoughtful essay, Prof. Harry Jaffa rightly notes that "nothing in Darwinian theory... excludes the possibility that natural selection is the means by which God created the species." Indeed, were this not so, we would expect all the world's great religions to be lined up against Darwinian theory,

which is hardly the case.

I take it that Jaffa's point is that the actual scientific claims of Darwinian theory are irrelevant to the large questions of human purpose and the human good. Even if billions of years of mindless matter in motion produced earth and some billions more produced man, the nature of man is independent of, and supersedes, the apparently unintentional character (a "cosmic accident," according to Stephen Jay Gould) of his creation. Although Jaffa may well be right philosophically, what seems to me incontestable is that over the past century-and-a-half Darwinian theory has eroded the claims of human dignity, human nobility, and free will. Certainly, many of the practitioners of modern science have reached just this conclusion.

Regrettably, in defending (a kind of) intelligent design, Jaffa, like many of those he criticizes, fails to recognize that there is a genuine scientific debate over the tenets of Darwinian theory. I do not mean the notion of descent with modification, an idea that precedes Darwin himself, but the claim derived from the 20th-century's neo-Darwinian synthesis that random mutations in the human genome combined with natural selection can account for the diversity of the living world. Biologists and chemists with respectable academic credentials challenge the argument that environmental selection pressures operating on random copying errors in the DNA molecule can produce fantastically complex molecular machines. Mathematicians calculate the unrealistically low probabilities for the events presumed by Darwinian theory, even over long timescales. Information theorists raise doubts about the power of random mutation and natural selection to account for the vast growth of complexity and information content in living beings since the first simple cell. Physicists and others point to the amazing "fine tuning" of the universe: the laws and constants of nature seem to be precisely what they have to be for life to exist.

Jaffa writes that "Aristotle says that whatever can come to be by art—that is, by intelligent design—can also come to be by chance—that is, without an artisan or designer." Imagine, however, exploring a wilderness and coming across Mount Rushmore (an example sometimes used by Intelligent Design theorists). No reasonable person would conclude that random patterns of erosion just happened to produce a striking resemblance to four famous American presidents. Even if one could compute the infinitesimally small likelihood that unguided natural forces produced the patterns on Mount Rushmore, this likelihood would be so low as to compel the conclusion that some intelligence was indeed the cause. One track in the Intelligent Design argument explicates the mathematical basis for distinguishing chance occurrences from those caused by an intelligent actor.

The keepers of the Darwinian orthodoxy have succeeded, unfortunately, in convincing many that there is no genuine scientific debate over these matters. We are told that the debate is really one between modern science and biblical literalism, or, somewhat more charitably, that the debate is a metaphysical one outside the ken of science. Yet ever since the publication of Darwin's *The Origin of Species* serious scientists have challenged the adequacy of mutation and natural selection to account for the living world. Serious scientists still do.

Joseph M. Bessette
Claremont McKenna College
Claremont, CA

Harry V. Jaffa's essay on evolution continues to miss the point of the controversy. He says that "those claiming exclusive sovereignty for what they consider the method of science in the curricula of our schools...fail to realize how limited is the understanding aimed at or achieved by this method."

Most of the advances that have made possible the present world of

plenty have relied on the Scientific Method. That method, as universally defined, requires evidence and not conjecture, and that method of discovery has been and continues to be the source of science's power as a way of thinking about the world.

To be sure, there are always lots of ideas without sufficient evidence yet that are floated around by research scientists looking for answers, but they must be accompanied by scientific evidence before being taken seriously. The word "evidence" has a specific meaning in science; it does not mean speculation about possibilities.

The crime here is to teach unsophisticated children Intelligent Design in a class called Science. Teach it anywhere else, but not to children whom we are supposedly teaching how to think as scientists do.

Prof. Jaffa's article is a testament to his lack of understanding of the Scientific Method. If he thinks it is "limited" he might try to develop another method that can be used to understand the universe. Whatever its limitations, scientists invented it, and they use it because all other ways to understand the universe have failed so far.

Evelyn Berezin
Poquott, NY

Harry V. Jaffa replies:

I can only commend Jonathan Witt for his letter, and urge our readers to take it with the greatest seriousness.

I am however puzzled that Jim Wilson is puzzled at my objection to his *Wall Street Journal* essay. It was not clear whether his dictum that there was "not a shred of evidence" applied to both Intelligent Design and the Designer of that design. My essay intended only to insist upon intelligent design, leaving open the question of whether that design existed by some inherent necessity of its own, or by the will of an intelligent designer. I believe that students in public

schools, or any schools, ought to be exposed to the evidence of the advocates for Intelligent Design, at the same time that they are exposed to the arguments of fundamentalist Darwinians.

Wilson says that the "advocates of Intelligent Design produce false arguments to support the existence of the Designer." That however does not mean that there are not arguments that are not false, for the existence of the Designer. The conflict between arguments on this subject ought to be debated openly, if need be before the students. Wilson's *ipse dixit*, however authoritative, is no substitute for the free examination of this subject.

Much of Wilson's letter is devoted to shoring up the claims of genuine science against religious propagandists who don't want the biblical faith of young people undermined by the teaching of evolution. But the days of the Scopes trial are over. There is now no longer any question of whether evolution can be taught. The question now is whether any critique of evolution can be taught. The aura of intolerance has changed sides.

What is at stake is more than the fate of biblical religion. What is at stake is American constitutionalism's moral and legal foundation. Darwinism may proceed as Wilson contends, upon strictly scientific premises. But its conclusions remain hypothetical, and they extend only to questions of how the species, including the human species, became what they are. But being and becoming are different. How a thing became what it is, is a different question from what it is. The first chapter of Genesis and the Declaration of Independence—with their references to Creation and Creator—assume the order of being that we can see with our own eyes. The equality of mankind is self-evident; that is, its truth is known *a priori* to anyone who can recognize the difference between a human being and a dog, and see why legitimate authority arises from nature in the latter case, but not in the other. This self-evident truth conveys at

the same time the reason why legitimate authority among human beings arises from the consent of the governed. From this, in turn, follow all the essential elements of what is properly meant by political freedom and the rule of law.

The attempt, inherent in Darwinism, to reduce man's humanity to the outcome of a blind struggle of material forces denies, in effect, the ground in nature and reason of man's personal and political free-

dom. In this, Darwinism is only one of many attempts to confine the science, or sciences, of mankind to what can be known by a method through which the behavior of human beings can become as predictable (and as controllable) as the behavior of mindless matter, or of subhuman organisms.

Evelyn Berezin accuses me of not understanding the "Scientific Method" which has given us our "present world of plenty." I can

assure her that I appreciate fully what modern science has done for (in Bacon's words) "the relief of man's estate." No one can be more grateful than I for the miracles of modern medicine. The method she celebrates is rightfully credited with increasing astronomically man's power over the forces of nature. But it has certainly not increased in the least man's wisdom to match the increase in his power. In fact, the false belief that the



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1:00 – 5:30PM

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John Andrews, Jonah Goldberg,
Charles Kesler
To begin at 1PM

September 11, 2001: Five Years Later
Mark Helprin, Christopher Hitchens,
William Kristol
To begin at 2:30PM

**The Politics of the Judiciary:
The Battle Over the Court**
Cherie Harder, Stephen Markman,
Jeremy Rabkin
To begin at 4PM

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Mr. Kudlow is one of America's premier economic analysts and commentators. He is the host of CNBC's *Kudlow & Company*, and is the CEO of Kudlow & Company, LLC, an economic and investment research firm. Mr. Kudlow was a member of the Bush-Cheney Transition Advisory Committee and served in President Reagan's Office of Management and Budget.

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same method that has increased man's power can also increase his wisdom has led to ever greater but ever more fruitless efforts to turn the social sciences into natural sciences.

I am more grateful than I can say for Professor Bessette's wise and deeply informed letter. I welcome his correction regarding the "genuine scientific debate over the tenets of Darwinian theory," a correction that I believe I have already made in my reply to Prof. Wilson, in which I rejected his "no shred of evidence" and called for open debate on the whole question of both Intelligent Design and Intelligent Designer. Prof. Bessette has given both me and Prof. Wilson a bulletin on how biologists, chemists, physicists, and mathematicians are examining the possibilities and probabilities of a Designer for the many and manifest evidences of design. For that I am grateful, and am hopeful that Prof. Wilson will be also.

MANLY POLITICS

Diana Schaub has read Harvey Mansfield's *Manliness* carefully and thought deeply about what she considers to be possible implications of his position ("Man's Field," Spring 2006). In sum, as she notes, he advocates that "we should continue to insist on gender neutrality [in public and under the law], but in private there should be a more honest acknowledgment of gender differences, and yes, even the truth of sex stereotypes."

Schaub then states her reservation about this position: "I don't see why the triumph of Aristotle in private [i.e., acknowledgment of gender differences] would not eventually undermine our official stance of gender neutrality." And yet, at least with respect to political candidates, the clock is not going to be turned back. Today women in the United States can be political candidates. I cannot

imagine that the time will come when American women will no longer be allowed to be political candidates.

As *New York Times* columnist David Brooks recently reminded us, "all politics is thymotic," or spirited. Even if men have an edge over women in developing their thymotic tendencies, as Professor Mansfield suggests they do, women are perfectly capable of developing their own in order to become political candidates. Couldn't the Yale female undergraduates mentioned by Schaub become stay-at-home mothers and then go to law school later in their lives, as Phyllis Schlafly did at the age of 51 ("Queen of the Grassroots," Spring 2006)?

Thomas J. Farrell
Duluth, MN

Diana Schaub replies:

Yes indeed, women will continue to run for political office and the polity is not about to disenfranchise women. However, we shouldn't be surprised if there continue to be fewer women than men in the halls of power. In 2006, only 15% of the members of Congress are women. Moreover, it is a very revealing fact that a significant number of the women who gain office do so upon the death of a spouse or, occasionally, a father. In effect, they inherit office rather than gain it solely by their own thymotic, ambitious efforts. Since 1923, congressional widows (who almost never lose a special election) have accounted for one-fifth of the women who have served. By contrast, only one widower ever sought his wife's seat, and he lost. Despite their inherited incumbency, widows often decline to seek reelection. Perhaps women really are of a more retiring, irenic disposition.

Mr. Farrell suggests that after their child-bearing years, women could pursue the polemical life (law school, political candidacy, and "developing their own" thymotic tendencies). It is true that

post-menopausal women are a force to be contended with, as we know from the stereotype of the old "battle-axe." It may be that as women age, their sphere of life should quite naturally expand, although we shouldn't be surprised if the issues that most concern political women remain domestic ones, as the example of Phyllis Schlafly confirms.

DEFENDING ISRAEL

Being critical of Israel is not always anti-Semitism, as Mr. Tartakovsky implies when he writes, "As Gutmann says, nearly every evil of the last three centuries—racism, apartheid, militarism, colonialism, fascism, ethnic cleansing, genocide—is routinely invoked against Israel. These are not so much criticisms of policy, mind you, but of Israel's existence...." ("Pictures Worth a Thousand Lives," Winter 05/06). A double standard is justified if you expect more from a democratic Israel than you do from the corrupt tyrants that surround it.

Eero Iloniemi
Nykypäivä Weekly
Helsinki, Finland

Is not Israel's problem that it has consistently misrepresented its intentions in the occupied territories, by using security as a pretext for expropriation and annexation? It is because the Israeli position has been and remains fundamentally dishonest, not because of Palestinian propaganda, that Israel is losing the media battle.

Robert Robinson
London, United Kingdom

I can't help thinking Joseph Tartakovsky's review of *The Other War* amounts to the vaudeville joke question, "Who you gonna believe—me, or your own lying eyes?" Wouldn't it be wonderful to believe that the entire lousy, degrading, horrific, and sad Israeli human-rights record was engineered by an inscrutable

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and "shameless" Arab demagogue named Yasser Arafat (standing in, in classic Orientalist style, for a moustache-twisting Fu Manchu)? But even if stone-throwing orgies during the Intifada were organized by the Palestinian Authority so that they could be videotaped by Reuters, my question to you is: did the Israeli army really have to bring live M-16 ammunition to the party?

Andrew Wilson
Cambridge, MA

Joseph Tartakovsky replies:

In response to Mr. Iloniemi, I did not imply that "being critical of Israel" is "always anti-Semitism." Ariel Sharon has been critical of Israel, for one, and judging by their unruly politics, nearly all Israelis seem critical of Israel in one way or another. I agree that there is a double standard. But it's not only Europeans and Americans who demand more from Israel. Israelis themselves expect that their elected leaders will not behave like the kings, mullahs, and presidents-for-life who rule the rest of the neighborhood.

But when a "critic" begins ranting about colonialism, apartheid, and ethnic cleansing, I suspect something else again. If one believes that Israel is a colonialist entity, does this mean that Israel must be decolonized and the land restored to someone else? If one believes that Israel practices apartheid, does this mean its government should be abolished like the apartheid regime of South Africa? If Israel now commits ethnic cleansing, might NATO have

to bomb in the Holy Land, as in Serbia, to halt it? (If you believe Israel deserves bombing, NATO probably won't help—but you may have a champion in Iran.)

If Mr. Robinson believes Israel is so intent on "expropriation and annexation," I wonder how he explains the fact that Israel just relinquished Gaza to the Palestinians. This met a decades-old demand of the Palestinians—and how did they respond? By electing Hamas, the party of theocracy and terror, which yearns for a new round of holy war. Which side seems more committed to a peaceful resolution of the conflict?

If Mr. Wilson doesn't sympathize with the Israelis, fine, but why the cheap sarcasm? He seems to dispute that the Palestinian Authority had a hand in organizing the Intifada. But who do you suppose those masked fellows are with the uniforms and AK-47s? Who pays their salaries? Who buses schoolchildren to riots? Who prints those martyrdom posters? Sneering doesn't hold up well against the facts, and here's one: last month, more Palestinians were killed by other Palestinians than by Israelis.

Correction: In the spring 2006 CRB, Prof. Ralph Lerner's letter to the editor was erroneously abridged. The complete letter is reprinted below.

Behind Benjamin Franklin's carefully wrought graven image there lurks "a serious thinker who, though he wore a leather apron, philosophized not with a hammer but a joke." So argues Jerry Weinberger in his essay, "American Idol"

(Winter 2005/06). The case is made with much evidence and glee in his challenging book, *Benjamin Franklin Unmasked*. He shows there that members of Franklin's audience who are unprepared for, or tone-deaf to, the music of a master ironist will hear but half the score.

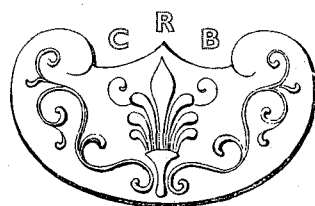
Weinberger's Franklin observes the world with disenchanted eyes—a prefiguration of Plunkitt of Tammany Hall? But with this difference: each man's closet nihilism is draped to suit his distinct private purposes. Your Boss-Fixer wants "More!" pure and simple. Weinberger's Franklin, on the other hand, is in it for the pleasure of playing "the grand game of modernity." As with chess, or with the construction of arithmetical magic squares and circles, or with charming and disarming conversation, he is good at it. He loves challenges and even more his success in mastering them, sometimes with subtlety but always with panache.

But does this reading account for, let alone do justice to, Franklin's astonishing achievements? Can one leave it at his "apparent dedication to public service"? Even if he was an Olympic-class voyeur, amateur, and gamesman, these qualities by themselves leave unanswered the question, what did Ben really care about? Granted, he maintained a critical distance from any and every orthodoxy or heterodoxy. Partisans of Presbyterianism, family values, even Baconian science, could not or would not face the problematic character of their premises. Franklin did, and that was enough to keep him from getting carried away. But care he did. For America, first as the jewel in the imperial

crown, then as a jewel in its solitary setting. For Philadelphia, for which he labored tirelessly both before and after his retirement from business for its inhabitants' security and quality of life. Turning to his sundry projects, this savvy man of affairs was well served by his clarity of mind. In confronting any particular situation, condition, or impasse, he steered clear of the commonplaces and certitudes that were the stuff of ordinary discourse. These, he thought, were less shortcuts to truth than barriers to understanding and peaceful resolution. Just about any ringing abstract claim invites its equally assertive counterclaim. The colonists' claim of rights elicited the Parliament's claim of its rights; the arguments used by Britain could as well—and as absurdly—be used (in a hoax) by the "King of Prussia" in reasserting his rights against the English descendants of his Saxon subjects.

Franklin's famous "strategy of humility" aimed at getting people off their doctrinal high horses. With their feet more solidly planted on earth, they might now engage fruitfully with one another and with the world as it is. We ought neither to passively accept the cards we are dealt by accident or Providence, nor curse them, nor ignore them. Instead, Franklin urged that we focus our attention on whatever lay within our grasp and means. Caring so deeply about human providence, he made it his business to help others try their hand as well.

Ralph Lerner
The University of Chicago
Chicago, IL



SOFT IN THE MIDDLE

Book Review by Douglas A. Jeffrey

Crunchy Cons: How Birkenstocked Burkeans, gun-loving organic gardeners, evangelical free-range farmers, hip homeschooling mamas, right-wing nature lovers, and their diverse tribe of countercultural conservatives plan to save America (or at least the Republican Party),
by Rod Dreher. Crown Forum, 272 pages, \$24

WHILE WORKING AT NATIONAL Review, Rod Dreher coined the term “crunchy conservatism” to describe a “lifestyle” he had recently adopted. Subsequently he discovered and sought out others who shared the requisite enthusiasms. Now he has written a book about it. The book is unrelentingly breezy. Introducing a rabbi who helped found an organic farm, Dreher exclaims, “How crunchy con is that!” Citing a secular-humanist friend’s desire for a moral revival that will relieve existential misery, Dreher thinks aloud, “Well, me, too, and I sure don’t want to live in a theocracy; a society in which one is free to choose one’s religion, or no religion at all, is the best of all alternatives, it seems to me.” Befitting its style, the book presents crunchy conservatism as an alternative and a rebuke to “mainstream conservatism” while neglecting the well-known disagreements within the conservative movement and in effect conflating conservatism with Republican politics.

Dreher identifies the “fundamental difference” between “crunchy” and “mainstream” conservatives as involving “the place of the free market in society.” Crunchy conservatives are less sanguine about capitalism. Drawing this

distinction, he wildly distorts the view of those in the mainstream: they “exalt personal fulfillment through individual choice as the summit of human existence,” hold that “the point of life” is “to become a satisfied shopper,” “believe...that the phrase ‘standard of living’ refers only to the size of [one’s] bank account and the square footage of [one’s] house,” extol the free market as “the holy of holies,” etc. One would think that Ayn Rand had excommunicated William F. Buckley, Jr., from the conservative movement rather than vice versa. Dreher does not provide quotes or attach names to this characterization. He just pummels away.

Even worse, he calumniates Americans en masse: “Are we willing to sacrifice our individual desires for the common good? I don’t think so.” While it is hardly off the wall (or original) to observe that many Americans today fall short of their grandparents’ virtue, this is the kind of blanket indictment one might expect from a college freshman puffed up by receiving a high grade for a term paper on Jonathan Edwards. Dreher, well into adulthood and raising a nice family in the midst of a nation with soldiers on the battlefield, should be ashamed.

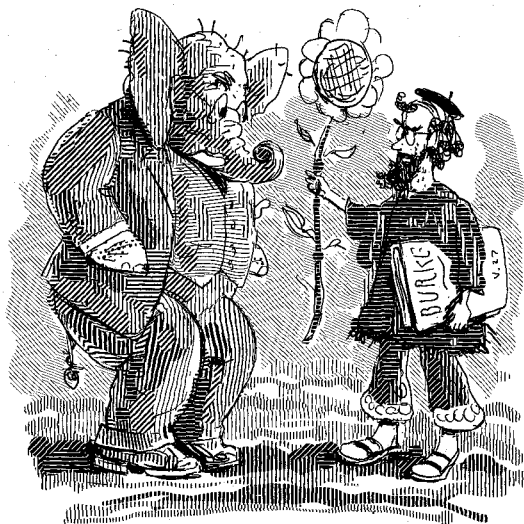
Dreher now works for the *Dallas Morning News*. He underwent his epiphany regarding free-market extremism (in his words, he was “poleaxed”) when the Texas legislature failed sufficiently to fund a children’s health insurance program; as a result, a woman in his Catholic home-schooling group had to take a job and enroll her kids in public schools. He gives no date or details, but this episode led him to editorialize for higher taxes in the name of “traditional family values.” In appearing to promote an extension of the social safety net to guarantee the ability to home-school, he does not acknowledge, much less engage, the considerable scholarship over the past 40 years suggesting that the welfare state has proved destructive of the family, both here and (more dramatically) in parts of Western Europe. Nor does he betray cognizance of the school-choice movement into which Milton Friedman and others have poured so much effort in recent decades. The irresponsibility that plagues this book reaches one of its crescendos when he writes: “What kind of an economy should we have, then? I don’t know; I’m a writer, not an economist” (emphasis added).

DREHER LEANS HEAVILY FOR HIS THEORETICAL framework on Russell Kirk, described as the “patron saint of crunchy conservatives” (and elsewhere as their “paterfamilias”). Indeed, in reacting as he did against the Texas legislature, Dreher says that he “got in touch with [his] inner Russell Kirk.” This is unfair to Kirk, who believed in principle that higher taxes were inimical to strong families and was deeply suspicious of government paternalism. This is not the only indication that Dreher is not as well versed even in Kirk as he lets on, e.g., endorsing the view that “Adam Smith and Karl Marx are two sides of the same coin” in holding a materialist view of human life, whereas Kirk famously named Smith (along with Edmund Burke and Samuel Johnson) as one of the West’s “three pillars of order.” Kirk did, as Dreher does, differ with most conservatives in endorsing the idea of government intervention to give small businesses (especially family farms) a leg up against larger ones. But in general Dreher’s animus against free markets is far less measured. Likewise his animus against America, which at times extends to Western civilization itself.

Crunchy conservatism, according to Dreher, is “about returning to tradition...[in order] to reclaim a life that’s richer, more satisfying, more grounded, more sustainable, more meaningful and...more authentically joyful than what mainstream American life offers.” The problem with this definition and goal—the problem for all traditionalist conservatives—is tradition’s infinite forms. To which tradition(s) should we return? The obvious conservative answer is “ours.” Here, American traditionalists bump into the unsettling fact that *our* tradition was born of revolution; confounding their dilemma, it was a revolution based on abstract principles that are incompatible with many, albeit certainly not all, traditions.

Kirk, to his credit, recognized this as the problem it was. Less to his credit, he resorted to bad scholarship to skirt around it. Against all evidence, he dismissed the Declaration of Independence as a propaganda tool aimed at gaining French support in America’s war against Britain; he enlisted John Adams as an opponent of social contract theory, seemingly unaware that Adams wrote the Massachusetts Constitution (1780)—the oldest still-operative constitution in the world—which is, if anything, more explicitly social contractarian than the Declaration; and he attempted to promote dissenters from America’s political tradition (e.g., John Randolph) to the front ranks. But Kirk did feel obliged in his thought and in his writings to pay considerable attention to the Constitution. Not so Dreher, whose confrontation with *our* tradition is at best fleeting.

Crunchy Cons alludes (slightly inaccurately) to the Declaration in a reference to America’s “secularist catechism [which] teaches us that the preservation of ‘life, liberty and the pursuit of happiness’ is the goal of our politics.” Weirily, Dreher calls this (without explanation) a “fine thing,” and says he does not “want to diminish [its] importance”—weirily, because he then writes that this catechism “is indifferent as to what happiness is, or how it might best be achieved. All this credo grants us is the freedom to decide for ourselves.” This view of America’s founding principles is in agreement with modern liberalism (as endorsed by a Supreme Court majority in 1992, in *Planned Parenthood v. Casey*, which embraced “the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life”). It is deeply at odds, however, with the view of America’s founders, for whom both liberty and happiness were inherently moral



concepts. If many Americans today, including Dreher, believe that the words we celebrate on July 4th represent an amoral blank check—that liberty is compatible with license and happiness unconnected to virtue—it is because they have not been properly taught, or taken time to teach themselves.

Dreher goes on to employ poor John Adams, again, to sum up what is wrong with our country. Adams, he writes, “saw the limit of the American framework in 1798: ‘We have no government armed with the power capable of contending with human passions unbridled by morality and religion.... Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.’” Adams here was making a point that America’s founders made repeatedly: education and religion are essential if the American experiment in self-government is to succeed. In Dreher’s clumsy hands—clumsy, because Dreher probably doesn’t intend it—Adams appears a critic not only of the Declaration, but

of the limits the Constitution places on government as well. In any case, apart from this brief passage, Dreher makes no attempt to grapple with America’s political thought or history.

IT IS IN ADDRESSING PRESCRIPTION OR TRADITION that *Crunchy Cons* comes closest to achieving clarity and appears most radical in its critique of conservatism by almost any definition. The traditions with which Dreher is most concerned—and the topics of his two longest chapters—are religion and food, in that order. Regarding religious traditions, he suggests on the one hand that any will do as long as it is “small-o orthodox.” Thus he introduces the reader at some length to four crunchy conservatives: a Protestant, a Catholic, an Eastern Orthodox, and a Jew. (Dreher does not address the compatibility of crunchy conservatism and small-o orthodox Islam.) On the other hand, he recounts how he takes his family to an Eastern Rite mass that is celebrated in Aramaic (“crunchy cons are big ones for authenticity,” he says), and this is clearly where his heart is: “Theologically, [Eastern] Orthodoxy is much more mystically oriented than Catholicism and Protestantism. In fact, a centuries-old Orthodox critique of Western Christianity is that it is too logical, too cerebral.... It’s easy to see why the ancient traditions of Orthodoxy...captivate the crunchy-con imagination.”

Russell Kirk traced the baleful influence of reason only back to the Enlightenment; he seemed to think that reason operated benignly (through what he called prudence) before then in a way that did not challenge the “wisdom of our ancestors.” Dreher’s critique of reason—influenced less by Kirk than by E.F. Schumacher, “the late crunchy-con economist and social thinker who...can show us the way back to sanity”—is wider ranging, and by no means restricted to the celebration of Christian mysticism. Citing Schumacher’s *Small Is Beautiful* (1973) in his chapter on economics, Dreher condemns not only laissez-faire economics, but “Western economics,” for “exploiting and encouraging greed and envy,” and suggests that Buddhism might offer a corrective. In his chapter on food—which promotes the “slow food movement” (founded by an Italian Marxist named Carlo Petrini in reaction, obviously, against fast food) and small-scale as opposed to corporate farming—he endorses the criticism of American conservatism that it “tend[s] to be very Western in [its] thinking. Greco-Roman-linear-segmented-compartmentalized thinking...as opposed to the eastern mind-set, which thinks more holistically, and more along the lines of ‘we’ than ‘I.’” One supposes it would surprise Dreher to know that achieving a workable balance between “we” and “I” is one of the defining achievements of

Western civilization, an achievement that goes a long way to explain why the East, and not the West, has been historically mired in despotism (see Herodotus, et al.).

It is a recurring lament in *Crunchy Cons* that "politics cannot save us." Dreher's proposed alternative emerges most clearly in the final chapter when he appeals to St. Benedict, who "inspired men and women of goodwill to leave the collapsing cities of the late Roman Empire and establish monasteries in the countryside." Today, Dreher writes, "it's time we became our own Benedicts" (although he makes clear that in the American context, this doesn't require ascetic monasticism; the crunchy-con "lifestyle" can be plenty comfortable). Recommending this retreat into private life, he adds—in surely the craziest (there is no other word for it) utterance of the book—"Why not? We have *nothing to lose...*" (emphasis added).

In this same chapter, Dreher recounts how "Defense expert Frank Gaffney told [him] that the successful detonation of a single [electromagnetic pulse] weapon could 'take the United States from a twenty-first century society to an eighteenth-century society instantaneously.'" Dreher's riff on this warning is, "Folks would [then] have to learn to do more for themselves and for each other.... It doesn't take a genius to see that the people who will thrive under such conditions are those who have preserved, or relearned, traditions" (by which he means farming and crafts). But Gaffney's objective in recently warning about the real danger of an electromagnetic pulse attack on the U.S. has been to convince our government of its moral responsibility to build a missile defense system. He is animated by this political purpose, rather than by Dreher's cultural concerns, because Gaffney understands that a country or a terrorist organization that would launch such an attack would do so as a preliminary step to conquest, and that conquest would entail murder, rapine, and enslavement. *Nothing to lose?*

CRUNCHY CONS NOW AND THEN TOUCHES on an important and compelling question: Does the tremendous wealth and prosperity that we enjoy in America today make it harder to cultivate virtue? Does the lack of necessity in our lives make it harder to

remember our obligations to God, our families, and our fellow citizens? The supreme irony is that in counseling a retreat from politics into a comfortable private life at a time of great danger to our country and our civilization, Dreher becomes Exhibit A in his own indictment of America.

In its discussion of food, *Crunchy Cons* quotes a nutritionist: "Our food is a sign of what we've lost in general. I think if we could start...rebuilding the quality of our plates, we could start rebuilding what we've lost in our culture." There is no equally strong statement in the much briefer discussion of education, which deals only with the virtues of home-schooling and of teaching religion (both fine and good, as far as they go). For reasons by now clear, Dreher does not address citizen education, education in politics and history, or higher education, which America's founders understood first and foremost as the education of statesmen. Elsewhere in the book, Dreher indulges in a "thought experiment": he imagines himself a presidential speechwriter who draws on Jimmy Carter's infamous "malaise" speech (1979), which he has come to admire. He writes for a president who is a scold: "The truth is, we Americans have lost our way. We used to believe in hard work, in family, in our communities, and in sacrificing, when necessary, for the greater good of all.... But our power and prosperity have made us spoiled and self-indulgent, and we have given ourselves over to the idea that we can find our greatest happiness in unbridled consumption."

Compare this imaginary presidential speech to a real one delivered in 1923, by Calvin Coolidge—whose portrait Ronald Reagan, the only conservative Dreher criticizes by name in his book, ordered placed in the cabinet room of the White House in 1981:

It is necessary always to give a great deal of thought to liberty. There is no substitute for it.... Unless it be preserved, there is little else that is worth while.... Individual initiative, in the long run, is a firmer reliance than bureaucratic supervision. When the people work out their own social and economic destiny, they generally reach sound conclusions. This is by

no means saying that we have reached perfection in any province; it is merely a consideration of some of the things that the liberally educated ought to do to promote progress.

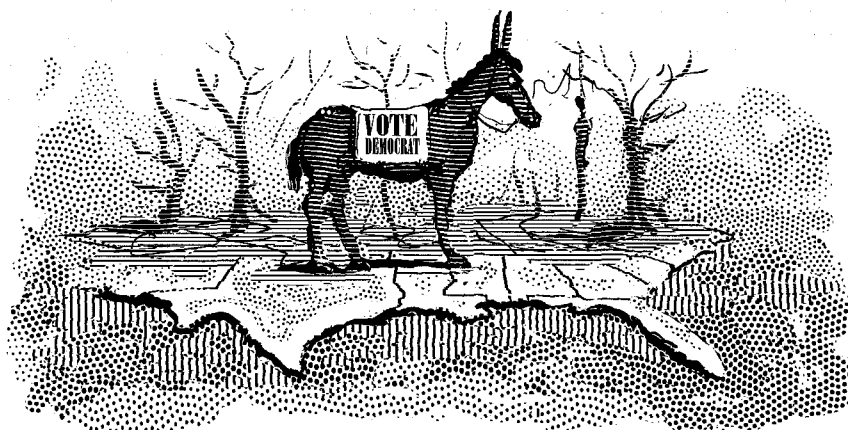
We have reached the antithesis of the asceticism of the Middle Ages. There is no tendency now to despise self-gratification or to hold what we call practical affairs in contempt. To adjust the balance of this age we must seek another remedy. We do not need more material development, we need more spiritual development. We do not need more intellectual power, we need more moral power. We do not need more knowledge, we need more character. We do not need more government, we need more culture. We do not need more law, we need more religion. We do not need more of the things that are seen, we need more of the things that are unseen. It is on that side of life that it is desirable to put the emphasis at the present time. If that side be strengthened, the other side will take care of itself.... The success or failure of liberal education, the justification of its protection and encouragement by the government, and of its support by society, will be measured by its ability to minister to this great cause, to perform the necessary services, to make the required redeeming sacrifices.

Rod Dreher comes across in *Crunchy Cons* as a good-hearted man. He loves God and his family above all. He has many sensible concerns about our country. One suspects that if he would read more about *our* tradition—and given his concerns, where better to begin than the speeches of Calvin Coolidge (who spent his spare time translating Dante and Cicero into English; as Dreher might say, "How crunchy con is that!")—he would discover that Western civilization and America are not so indefensible; that we have come through times as difficult as these before; that what it takes is more and better politics, not less; and that the key is education, which is what makes a writer more than a writer, and his books worthwhile.

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GOOD DEMOCRATS AND BAD DEMOCRATS

The Rise of American Democracy: Jefferson to Lincoln, by Sean Wilentz.
W.W. Norton & Co., 1,044 pages, \$35



WHAT THE DEMOCRATIC PARTY HAS most liked to say about itself—that it is the party of the working man, the voice of the oppressed, the tribune of the people—loses some of its strut in the light of a rather long list of inconvenient facts, chiefly having to do with slavery and race. Such facts as these: that the Democrats were the party that championed chattel bondage, backed an expansionist war to expand slavery's realm, and corrupted the Supreme Court in order to open the western territories to the cancer. The party's Southern wing then led the nation into civil war in defense of slavery while its Northern wing did its best to stymie the administration of Abraham Lincoln, widely regarded by the Democrats as an accidental, even illegitimate, president. Thereafter, the party embraced Jim Crow as slavery's next-best substitute, elected a president who imposed segregation on the federal workforce, and remained the chief opponent of racial equality in much of the United States (though with important dissenters) up to the brink of the 1960s. The wonder, however, is not that the Democratic Party survived its six-decades-long infatuation with slavery and its century-long alliance with segregation, but that the party repressed all memory of that infatuation and that alliance so quickly—and made so successfully the argument that it had never ever, in its heart of hearts, been slavery's best friend after all.

This argument was made in the broadest terms in 1945 by Arthur M. Schlesinger, Jr., in *The Age of Jackson*, and it has now been made once again, with even greater scope, by Sean Wilentz in *The Rise of American Democracy*. No one, in

fact, is more aware of the line that connects *The Age of Jackson* with *The Rise of American Democracy* than Wilentz himself, who pays lavish tribute to Schlesinger in his preface. (Schlesinger returned the favor in an essay published in the *New York Review of Books*, April 27, 2006.) According to Wilentz, it was Schlesinger's great achievement to place "democracy's origins firmly in the context of the founding generation's ideas about the few and the many...seeing democracy's expansion as an outcome of struggles between classes, not sections." This is an elegant, and somewhat deceptive, way of saying that Schlesinger rescued the history of the Democratic Party from the opprobrium with which Charles Beard and J. Allen Smith had covered all the founders, as the evil twins of the robber barons, who constructed the Constitution in order to rob ordinary folk of the economic egalitarianism promised by the Declaration of Independence. No, replied Schlesinger, the Jacksonian Democrats were genuine keepers of the Progressive flame; Andrew Jackson was a sort of antebellum FDR (and FDR a latter-day Jackson) restoring democracy and care for "the little guy" to the republic. This is the gauntlet Wilentz sees himself taking up.

There have always been several unpleasant difficulties with this argument, beginning with Andrew Jackson himself, who has not survived the trampling of biographers as an entirely admirable character. Michael Paul Rogin's enormously influential *Fathers and Children: Andrew Jackson and the Subjugation of the American Indian* (1975) portrayed a Jackson who suffered from "manic omnipotence, paranoid rage, and occasional deep depression." Rogin argued that, in

his obsessive pursuit of domination, Jackson struck out recklessly and passionately at one imagined threat after another—the Creeks, Choctaws, Seminoles, and Cherokees, principally, but also the British, banks, corporations, his wife's first husband, Charles Dickinson (whom he killed in a duel), and Alexander Arbuthnot and Robert Armbrister (whom he executed "on the wholly fanciful ground that men from a neutral country aiding one nation at war with another were pirates in international law and could be killed upon capture").

NOT ONLY IS JACKSON HIMSELF IN question, but the Democratic Party whose fortunes Jackson revived in the 1820s has to some appeared less as the forerunner of the New Deal than as a congealed mass of ethnic and cultural alliances. Neo-Marxists of the Frankfurt School or of the Gramscian persuasion have insisted that political parties in the Jacksonian era served less as vehicles for specific policies or political programs than as networks of ethnic and religious clans. Lee Benson, for instance, found little evidence in New York state politics of a great Jacksonian class war that pitted the downtrodden "many" against an aristocratic "few." Very much to the contrary, Benson found in *The Concept of Jacksonian Democracy* (1961) that "farmers, mechanics, and 'working classes' did not form the 'main-stay of the Democratic party.' Instead of low-status socioeconomic groups, the Jacksonians' strongest support came from relatively high-status socioeconomic groups in the eastern counties, and relatively low-status *ethnocultural and religious groups* in all sections of New York."

The most important survey since Schlesinger's of the Jacksonian era, Charles Sellers's stupendous *The Market Revolution: Jacksonian America, 1815-1846*, essentially jettisoned both Jackson and politics from Jacksonian democracy and re-envisioned it as a cultural struggle which only incidentally erupted in political shape. Sellers never had any doubt, writing in 1992, but that "capitalism commodifies and exploits all life.... Relations of capitalist production wrench a commodified humanity to relentless competitive effort and poison the more affective and altruistic relations of social reproduction that outweigh material accumulation for most human beings." The warfare of capitalism against yeoman republicanism, and the market "penetration" (sounding as though it were a rape) into every corner of American life, were the real story of Jacksonian America. Andrew Jackson and his party were, at best, marginal players, ultimately unsuccessful at resisting the ravishment. Even Jackson's Bank War, which Sellers cast as "the acid test of American democracy," could not be a total victory for Jacksonian democracy because it "was distorted from the start by a Constitution designed to frustrate majorities." The Constitution had made "democracy safe for capitalism." American politics was not a vehicle for implementing democracy, but an obstruction to it.

ENTER SEAN WILENTZ, WITH A RINGING re-affirmation of the basic Schlesinger premise: politics really is central to the story of Jacksonian America, which really is a story about the struggle to eliminate the artificial political privileges of the "monied aristocracy"; and Jackson and the Democratic Party really are the heroes. It is a story that begins in Parliamentary England and unfolds as British common-law theorists routinely demean the idea of democracy, while Americans learn to practice it. This democratic idea, under the aegis of Andrew Jackson, develops into a political ideology that deplores the capitalist "credit-and-paper, boom-and-bust system" and favors "a more secure and egalitarian commercialism... which [Jacksonians] believed would distribute wealth more evenly while keeping political power in the hands of the majority of the citizenry." Jacksonian Democracy was a movement for "those who considered themselves producers pitted against a nonproducer elite" who were able "to oppress the productive many...because of deliberate political corruptions that thwarted the great principle undergirding American government, popular sovereignty."

But then there is the nagging problem of slavery. How can anyone believe seriously in the democratic *bona fides* of a president who cheerfully owned slaves and a party whose instinctive

reaction to any question involving slavery was to defend it? Wilentz's answer is kin to a good cop-bad cop routine: there were good Democrats and bad Democrats. The good Democrats were descended from the "city democracy" of revolutionary urban artisans and militia, and then later, in the 1820s, of the Workingmen's parties in New York and Philadelphia. The Workies constituted an authentic early republican proletariat, dislodged from the old "established customs, hierarchies, and solidarities of craft" by the Industrial Revolution's "rearrangement of work" and "a spreading permanent dependence on wages." They are, in Wilentz's account, almost always on the side of the angels: they are the vanguard of opposition to slavery in Congress, they abide by "the central Jacksonian principle that the majority is to govern," and they make Andrew Jackson president. (There were also moderately good Democrats—e.g., James Madison and Thomas Jefferson—who struggled to temper the absolutism of the "city democracy." But their legacy, though "ambiguous," was still "largely positive," even when it came to slavery.)

Jackson is, of course, the beneficent chieftain of them all—and given the fact that he was a slaveholder, a wealthy landowner, a duelist, gambler, and cockfighter, he receives the most severe airbrushing Wilentz can apply. True, Jackson was responsible for the most drastic episode of ethnic cleansing in the history of the nation, the forced relocation of the Cherokees, but at the final tally, "Jackson was a benevolent, if realistic paternalist who believed that the Indians would be far better protected under federal jurisdiction than under state law." The Bank War was not, Wilentz would like us to believe, yet another example of Jackson's "rage" or his "abiding hatred" of Nicholas Biddle, but a "symbolic and substantive" strategy to "liberate democratic government from the corrupting power of exclusive private business."

BY CONTRAST (AND BY WAY OF EXCULPATION), the bad Democrats were the "country democracy," the "Virginia Quids" whose first spokesmen were John Taylor of Caroline and John Randolph of Roanoke, who abhorred "strong national government," made a fetish out of states' rights, and defended slavery as a "positive good." Their only real kinship with the "city democracy" was their shared hatred of "capitalist consolidation" and "federal complicity" in it through the First and Second Banks of the United States. However, the undeserved clout bestowed upon them by the three-fifths clause made them a force to be reckoned with in Democratic councils. The need to keep the "country Democrats" on board explains, for Wilentz, virtually all of the embarrassing rac-

ism and disunion that otherwise plagued the Democratic reputation.

Unquestionably, the evil genius of the bad Democrats is John C. Calhoun. But James Knox Polk—who committed the republic to war with Mexico in order to expand slavery's boundaries—is Wilentz's marker of the end of authentic Jacksonianism. Thereafter, the spirit of real Jacksonianism passes to David Wilmot and his famous Proviso, and from there to a new coalition of anti-slavery stalwarts, while political Jacksonianism is betrayed to the southern "country" slaveholders. In this scenario, the Republicans of 1856 and 1860 are really good Democrats who had been forced out of their party by the Calhounites, and Wilentz is not slow to point out that "the planners" of the Republican party were "all men with either strong past Democratic links...or Democratic affinities." Abraham Lincoln becomes almost an honorary Democrat.

STILL, AWFUL AS THE BAD DEMOCRATS turn out to be, they are never so awful as the Federalists, who suffered from "hidebound elitism" and who sought "to set one class above all others: insider monied men and speculators who manipulated government to gain special favors and advantages at the direct expense of ordinary citizens." Unlike the "city Democrats," who can be excused from the Democratic dalliance with slavery on the grounds that slaveholding was not a characteristic of *real* Democrats, the Federalists receive no quarter from Wilentz. Never mind that Federalism included Washington, Adams, and Hamilton; "all" Federalists "agreed that the Revolution had been won to replace the British monarchy with a natural American aristocracy of more well-educated property holders, the rightful governors over a licentious and disorderly populace."

But at least the Federalists worked from principles. The same cannot be said for Henry Clay and the Whigs, who form the real axis of evil in Wilentz's morality play. Clay is a shifting, devious, power-hungry politico whose sole lust is for the presidency, while the Whigs are a cave of Adullam who "purport to represent the people" and who ignore the systemic abuses of industrial capitalism in favor of exhorting Americans to economic self-help and sentimental moralism. No Whig can be sincere. Even Davy Crockett, who had "a falling out" with Jackson "over some land legislation," was lured—"snatched up," writes Wilentz, as though the two-term Tennessee congressman were a witless oaf standing fuddled on a street-corner—by the Whigs into their party merely "to prove their populist credentials with the electorate."

Such a long book did not have to be a tale of such great simplifications. There are howlers in this book which Wilentz should have known far better than to patter-up. Anti-slavery "fusion" Democrats never made up more than a fraction of the Republican vanguard, which was largely dominated by ex-Whigs like Abraham Lincoln; Henry Clay did not lose the 1844 election because nativist Whigs turned against him, but because the newly-swollen immigrant vote went largely to Polk; Lincoln's original proposal to Stephen A. Douglas was for over fifty debates, not nine. But his treatment of the Whigs reveals that Wilentz has a far deeper problem in celebrating his Democrats as the party of democracy than just the party's chilling embrace of slavery. The problem is the way Wilentz, and the Democratic party, conceive of democracy itself.

The Whigs have always had something of the unhappy aroma of the Washington Senators, in that they seemed always to be losing; eventually, people feel justified in concluding that there must be an inherent weakness of some sort in a team or a party. So far as the Whigs go, that is a simplification. Whigs and Democrats traded control of Congress pretty frequently in the 22 years the Whig Party flourished, between 1834 and 1856, and although the two presidential elections they won were fumbled away by the victor's death in office (William Henry Harrison in 1841, Zachary Taylor in 1850), the Whigs came agonizingly close to carrying off the laurels for Henry Clay in 1844. (Clay lost the popular vote by only 38,000; and the state voting was so close that if slightly more than 2,000 voters had gone for Clay rather than Polk, Clay would have taken New York, the Electoral College, and the presidency). That makes the Whigs victorious in two out of the six presidential elections they contested, and almost three out of six, which is not bad. Obviously, they were attracting someone.

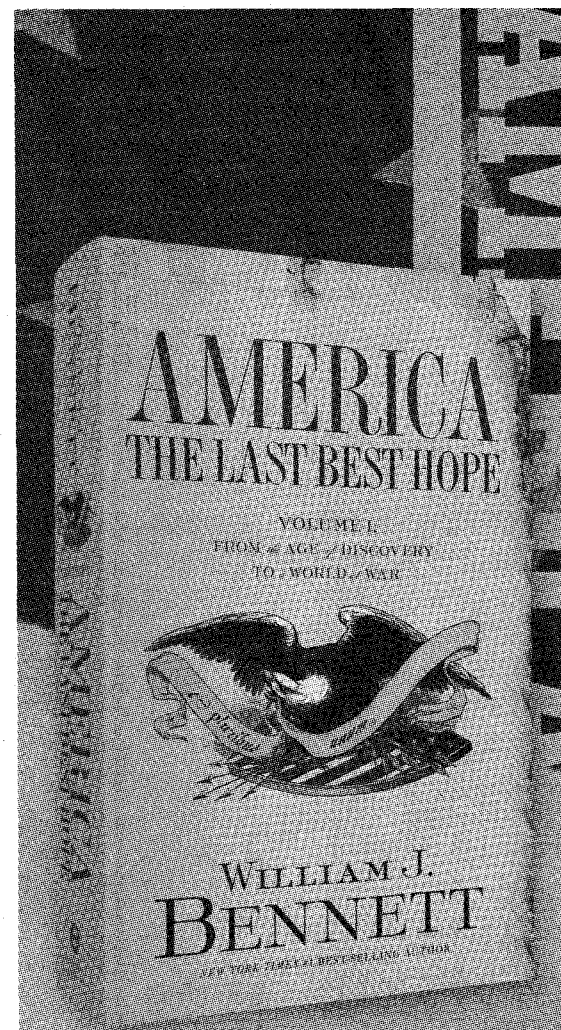
And that someone was not likely to have been an avaricious coalition of bankers, merchants, factory-owners, and stock-jobbers, if only because there simply weren't enough of them in antebellum America to win an election; just as, for that matter, there weren't enough alienated urban workers to create the kind of proletarian Democratic Party Wilentz so fondly describes. Wilentz, who first made his mark in 1984 with *Chants Democratic: New York City and the Rise of the American Working Class, 1788-1850*, continues in *The Rise of American Democracy* to see New York City as the nation. But Jacksonian America was still an overwhelmingly agricultural republic, and the winning or losing of elections turned a good deal more on the skill with which parties

organized voters—especially new voters—and capitalized on the other party's policy mistakes than it did on the clash of class interests. Even at the apogee of Jackson's presidency, only a little more than 7% of Americans lived in towns or cities larger than 2,500 people, and only 7% of American manufacturing took place under chartered corporations. As late as the 1850s, the average industrial concern employed only 14 workers in New England, eight in the mid-Atlantic, and four in the trans-Appalachian West.

BUT WILENTZ IS CORRECT IN AT LEAST one respect: the Democracy was consistent in its commitment to some form of equality. The difficulty is that this notion of equality was an equality of restraint and suspicion, the conviction that no one deserves to have more than I do; and if they do have more, it can only be because of unjustifiable luck or illegitimate scheming. Despite Wilentz's struggle to dissociate the racism of the "bad" Democrats from the shining virtues of his "good" Democrats, an idea of equality based on restraint means narrowing the field of those whom equality can afford to admit to its ranks—which is why Wilentz's workingmen were so strangely indifferent to slavery. In a world of limited resources, lines had to be drawn defining who would be allowed to exploit those resources, and the racial line was a convenient one for white slaveholders and white workingmen alike. The Whigs, on the other hand, were not so much the critics of democracy as they were the partisans of an entirely different concept of democracy, built on the openness of a competitive economic society but also accepting the up-and-down risks of open markets. What Jackson's Democrats thought of as the ideal political economy was a pyramid in which everyone was guaranteed a fixed place, so that the justly rich were secure and the poor were subsidized (and in the South, literally subsidized through slaveholding and appropriations of Indian land).

That may, in the end, show how very little has changed in the fundamental ideology of the Democratic Party since Jackson's day. And this, in turn, may explain the anxiety of Democratic apologists to distance themselves from the ugly remembrance of slavery. For them, *The Rise of American Democracy* will deliver a very usable past; but it will be a mythic past, and in support of a mythic politics.

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NEW WORLD, OLD MYTHS

1491: *New Revelations of the Americas Before Columbus*, by Charles C. Mann.
Alfred A. Knopf, 480 pages, \$30



FROM THE FIRST MOMENT OF CONTACT, Europeans viewed the American Indians through various mythic lenses. The most famous of these, applied indiscriminately to the vast variety of peoples inhabiting the Americas, was the Golden Age, which imagined a time before history when humans lived in harmony with a kind nature, without cities, technology, laws, property, and all the misery and strife these create. Indians were viewed not as complex human beings, but as projections of the white man's longings, or noble-savage reproaches to the white man's civilization. In either case, writes Charles Mann in *1491: New Revelations of the Americas Before Columbus*, they lacked "agency"; they were never "actors in their own right, but passive recipients of whatever windfalls or disasters happenstance put in their way."

Five hundred years later, little has changed. Too many interests are served by such myths. Popular culture has found in Indianism a lucrative commodity, as in Walt Disney's *Pocahontas* or Kevin Costner's *Dances with Wolves*. And critics of American society, whether identity-politics tribunes or anti-capitalist leftists, have found in what Mark Twain called an "extinct tribe that never existed" a powerful weapon for attacking the perceived crimes and dysfunctions of modern America—from ravaging the environment to fetishizing private property. What is lost, of course, is the historical truth of the Indian and his conflicted, quirky humanity.

Mann for the most part successfully recovers that truth, giving us a portrait of New World Indians that restores their agency and humanity, and thus rescues them from their pathetic status as the victims of a marauding, uniquely

evil European civilization. Mann writes about science for the *Atlantic Monthly*, and his book is typical of most science books addressed to non-scientists. The discussions and explanations of scientific controversies are interlarded with personal anecdotes about the author, scholars, researchers, and various other people he meets on his research journeys. But despite these chatty distractions, he manages to discuss pretty clearly and fairly three key controversial ideas about the conditions of pre-contact American Indian life, even if his conclusions are not always convincing.

THE FIRST CONCERNS THE POPULATION of the Americas when the Europeans first arrived. How many Indians were alive before they encountered the strange and deadly diseases the Europeans brought with them? This is a highly charged political issue for those who see Columbus and his successors as genocidal racists. Mann takes his readers through the decades of research and the arguments for and against the higher and lower estimates, as well as the politicized issue of assigning blame for the deaths and characterizing them as "genocide." In the 1920s, estimates put the population of the entire hemisphere at 40 or 50 million; 20 years later, the guess was a fifth that number. He tells us that today the "High Counters" are winning the debate, but he doesn't provide a number. He does endorse Henry Dobyns's estimate of 90-112 million, but nothing in his discussion makes this estimate convincing. Part of the problem, he writes, is to figure out where all these people went, given how few Indians were left by the 17th century;

in central Mexico, for example, there were fewer than a million.

One solution is to posit astronomical mortality rates, such as 95%, for the diseases the Indians caught from Europeans. But such mortality rates from disease are very unusual. The Black Death killed a third of its victims, the 1918 flu epidemic 5%. These low mortality rates make evolutionary sense, since a disease that kills almost all its victims dooms itself. One explanation for these estimated high rates is a genetic vulnerability that afflicted New World Indians and left them uniquely vulnerable to disease—a lack of variety in the human leukocyte antigens, which help the body fight off various pathogens. But this explanation, while promising, is still speculative. Given the margins of error that compromise pre-contact population estimates, and the questionable reliability of sources contemporary with the Indians, we still can't say with much certainty what the Indian population was at the time of European contact.

The second issue Mann discusses is the evidence that pre-contact Indian societies were "older, grander, and more complex" than the primitive hunters and gatherers of earlier descriptions. Support for this view comes from recent research that pushes the Indians' presence in the New World to 20,000 or even 30,000 years before the present instead of 14,000 or 15,000. This added time allows for more generations of people, supporting the population estimates of the "High Counters," and also provides extra time for developing more sophisticated civilizations. Mann surveys the recent archaeological discoveries of irrigation works, textile production, writing systems, calendars,

roads, pottery, the domestication of cotton and maize (the latter something of a miracle, given how little the Indians had to work with), and even in the Peruvian Andes a "great wall" made of stone and stretching for 40 miles. All these remains testify to a level of civilization far beyond the old picture, painted by Indian idealizer and demonizer alike, of Indians as primitive hunters and gatherers indistinguishable from their natural environments.

On the contrary, pre-contact Indians were builders of many more urban centers and complex societies than just those created by the Mexica (Aztecs) and Inca. In North America, for example, the Cahokia chiefdom near modern St. Louis was the greatest city north of the Río Grande between 950 and 1250 A.D., with a population of 15,000. Its huge mounds are still visible today, the largest 900 feet long, 650 feet wide, and 20 tall. Fronting it was a plaza 1,000 feet long. As Mann observes, "[a] thousand years ago it was the only place for a thousand miles in which one could be completely enveloped in an artificial landscape."

BUT THE SOPHISTICATION OF INDIAN cultures, in addition to their greater numbers, creates a problem for the third controversial notion—and one of the most cherished myths of Indian idealizers—that they were natural ecologists, harmonizing with the natural world, and "living lightly on the land." When many millions of people create cities and domesticate plants and animals, they necessarily affect their environment much more extensively than would hunters and gatherers or rude farmers. Mann surveys the evidence and finds that, like humans everywhere, Indians shaped and transformed their surroundings in various ways: "At the time of Columbus the Western Hemisphere had been thoroughly painted with the human brush."

The most important tool used by Indians to shape their environment was fire. It cleared space for farming, drove herds during hunts, promoted useful plant and animal species, and even served as entertainment: Rocky Mountain tribes entertained Lewis and Clark "by applying torches to sap-dripping fir trees, which then exploded like Roman candles." The Great Plains is mostly an artifact of Indian burning, and the presence of bison in the East was due to the Indians, who burned off forests and thus created a landscape more suitable for bison. Even the vast Amazonian rainforest, "[f]ar from being the timeless, million-year-old wilderness portrayed on calendars," is in fact "the product of a historical interaction between the environment and human beings." As much as an eighth of the Amazon forest was created by humans who nurtured plants like the peach palm, bacuri, and açai. They even invented

dirt: *terra preta*, a nutrient-rich soil produced by mixing charcoal and organic refuse with earth, helped their orchards grow.

Indeed, some of the icons of America's supposedly pristine wilderness were in fact the *consequence* of the Europeans' presence, which disrupted the resource management techniques the Indians had developed over the centuries. The endless flocks of passenger pigeons celebrated and mourned by John Muir and James Fenimore Cooper were the result of fewer Indians. So too with the bison herds, which flourished in the ecological space once occupied by Indians whose number had been diminished by disease. So too with the "forest primeval" admired by American Romantics. All were part of the new environment that came into being after Indian numbers plummeted and the landscape they had crafted and tended over the centuries began to alter. As Mann concludes, "Far from destroying pristine wilderness...Europeans bloodily created it."

The Indians were superb "resource managers," then, rather than the mystic nature-lovers of popular culture and multiculturalist curricula. Yet some Indian societies occasionally overtaxed their environment and hastened their own demise. The Cahokia over-hunted animals, over-cleared forests and vegetation to plant maize, and diverted a river to supply water. These interventions led to erosion and cataclysmic flooding that destroyed the maize crops, a disaster repeated in other river-valleys where brush and trees were cleared to plant maize. This environmental degradation probably contributed to the Cahokia's abandonment of their territory. So too with the Maya in Central America, who also overtaxed and outgrew their environment's capacity to support their numbers. Add war, economic competition, and drought, and the stresses were too great for the Maya to overcome—an object lesson, perhaps, for our own civilization: not about "rebuilding an environment from the past," as some sentimental naturalists have it, but about "shaping a world to live in for the future," Mann concludes.

DESPITE HIS GOOD SENSE AND WILLINGNESS to discard pleasing myth in order to find the truth, the pull of sentimental Indianism is sometimes too hard to resist. Throughout his book, for example, Mann makes invidious comparisons with 15th-century Europe that echo the moralizing of the first explorers. Obviously, people living in simpler societies have advantages over those living in more complex ones, as the Romans recognized with their idealizations of the Germanic tribes across the Rhine. He also tries to palliate the savagery of some Indian societies with a *tu quoque* argument that usually ends up as mere special pleading. To imply that the Mexica's practice of sac-

rificing tens of thousands of victims by tearing out their hearts and consuming the remains was no different from the brutal methods of publicly executing criminals in Europe ignores the simple fact that no matter how unfair the trials by our standards, in Europe criminals were still executed only after they had been tried according to law. And the bodies weren't eaten.

Mann's worst offense in this regard comes in his concluding "Coda," in which he resurrects one of the oldest of Noble Savage Indian myths, that the Iroquois League provided the colonists with a model of "limited government and personal autonomy." This is historical nonsense. The Iroquois had no written laws, formal institutions and offices codified in law, notions of citizenship, transparent procedures for fair elections, or anything remotely resembling a "constitution." That the first Americans, knowledgeable of the 2,000-year-old tradition of classical republics and confederations referred to many times in *The Federalist*, should turn to what Benjamin Franklin called "ignorant savages" for inspiration, is incredible. Nor would early Americans, schooled in the traditions of ordered liberty stretching back to Runnymede and Thermopylae, need the example of Indians any more than the republican Romans needed the Germans to show them how to be politically free.

Mann's missteps result from the weakness of those who look to material causes rather than culture when explaining historical phenomena. For no matter how clever or sophisticated were the Indians of the New World, in one respect they were vastly inferior to their European conquerors: their cultures had few resources for adapting to new circumstances, whereas the story of Europeans in the Americas is one of constant adaptation and initiative, a reflection of the intellectual dynamism that characterizes the West.

Perhaps the material cause most frequently invoked to explain the Indians' retreat is disease. But disease alone, though it exacted a fearful toll, does not explain the outcome in the New World. Even if as many as half the Inca were wiped out by disease, as Mann speculates, Pizarro still had fewer than 200 men, and was thus outnumbered by hundreds to one. Mann is to be congratulated for giving us a picture of the Indian that respects his complicated humanity, but he still has no answer for the fundamental question raised by the collision of the Old World and the New: why were the Spaniards in Tenochtitlán, and not the Aztecs in Seville?

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REDEFINING THE REVOLUTION

The Unknown American Revolution: The Unruly Birth of Democracy and the Struggle to Create America,
by Gary B. Nash. Viking, 544 pages, \$27.95 (cloth), \$16 (paper)



ACCORDING TO MOST HISTORIANS THE Founding Fathers get far too much credit. The idea that a narrow, privileged, and clearly self-serving cadre of elite white patriarchs should be depicted in best-selling volumes as forward-looking, visionary statesmen galls them. Earlier generations of Progressive historians made an exception for Thomas Jefferson, whom they regarded as a genuine liberal; but their successors have jettisoned the Sage of Monticello from the national pantheon because of his slaveholding and racist views. The obvious next step would be to dismantle the pantheon itself. But Gary B. Nash, one of the towering figures of his generation of historians, has another solution: redefine the Revolution in a way that marginalizes great white men, populates the stage with a new, "unknown" cast of characters with a "radical agenda," and exhorts modern readers to embrace and sustain these radicals' "visionary and experimental" struggle for a "better future."

Nash believes that his readers will find "history more satisfying" if they encounter "figures like themselves—in color or class, religion, sex, or social situation." The radicals' "many-sided struggle to reinvent America" was a "seismic eruption" that has "reverberated around the world among oppressed people down to the present day." Many of Nash's protagonists—Indians, enslaved Africans, rural tenants of imperious Whig overlords—were *opposed* to the actual American Revolution. But its "life and soul," he

insists, was in its transformative spirit, not in the patriot elites' "tussle with the mother country." The rebellious slaves who responded to the king's counter-revolutionary "call for arms" best exemplified the real "spirit of '76," and "Loyalists were among the most radical proponents of a transformed American society."

Some of Nash's revolutionaries actually supported the American Revolution. The progressive coalition, he explains, included anyone who was acutely "dissatisfied" with the colonial status quo, from "ordinary people" who suddenly saw "themselves as agents of history" and sought "elementary political rights and social justice," to Abigail Adams and other elite ladies who bridled at the misogynistic condescension of the patriot patriarchs. Because Nash's radicals chose *different* sides in the more familiar, better "known" revolution, they could not expect their efforts "to have an end point, final victory, or triumphant success." Yet "all of them," he writes, were "animated by a sense of freedom, justice, or dignity denied," and "could no more step away from the revolutionary agendas they had created than a mountain stream fed by melting snow can halt its rush to the valleys below." In other words, they were united by the inevitable convergence of their radical agendas, the "rivulets that fed into the mainstream of revolutionary consciousness." Their "yearning for a more equitable society" pushed the expansive boundaries of an emergent American nationhood.

NASH'S NATURALISTIC METAPHORS—"seeds" are always being planted, just as "rivulets" flow—reflect and illuminate his fundamental premise of an immanent, transcendent, organic unity beneath and beyond the diversity and conflict he so eloquently chronicles. The revolution was "an upheaval among the most heterogeneous *people*" (my emphasis) in the Atlantic world, a "war to reform American *society*" (my emphasis), and an effort to fulfill the "promises of revolutionary radicalism" for all oppressed and marginalized groups. Nash assumes, in short, that all of his actors really wanted to be "Americans," not members of some other (any other!) national community that might offer better prospects for securing their natural rights—even when they quite sensibly chose to make war *against* "America." This is why Nash's radicals have to be "visionary," looking beyond a war that left most of its putative promises unfulfilled: otherwise, they would simply be losers or, worse yet, enemies of the new American republic. To overlook that messy, distinctly uninspiring historical reality, Nash's readers also have to be visionary. By tracing the mainstream back through its rivulets to its radical sources, they will discover a larger, progressive pattern, a transformative myth of an emerging but still incomplete "egalitarian democracy."

Notwithstanding Nash's title, the stories he tells are hardly "unknown" to American historians. In the last generation, professional

historians have lavished much more attention on the history of race and slavery, intercultural encounters on the frontiers of settlement, and the changing structure and character of gender relations and family life in the revolutionary era than on the war itself. Nash makes good use of this scholarship. Where he departs from most of his fellow historians is in his forthright advocacy of a new national mythology. Nash seeks to displace the founders with a cast of characters he finds more congenial. The problem with the founders, according to Nash, is that they clearly envisioned an expansive, imperialistic, and racist republic in which Indians were obliterated, slavery was consolidated, wealth was concentrated, and the market triumphed. Staring into the heart of national darkness, Nash sees a bright if sometimes flickering aura. "The idea of independence" as patriots understood it, may have "had its limits," but Nash discovers the nation's real "life and soul" at those limits. These are where subsequent generations of radical reformers kept faith with their revolutionary forebears.

The Unknown American Revolution is anything but an exercise in founder-bashing. To the contrary, it is an ambitious effort to construct a new national pantheon, by exploiting the materials that a generation of critical historiography has made available. Nash is, in other words, a Whiggish nationalist who shares common ground with other nationalists like Arthur M. Schlesinger, Jr. Perhaps the closest parallel in recent historical writing is Gordon Wood's *The Radicalism of the American Revolution* (1992), which offers a similarly heartfelt testimonial to the rising tide of American democracy, though Wood locates his less tortured narrative in the more comfortable and familiar terrain of ideological and political history. Wood discovers a distinctly American radicalism—middle-class democracy. Nash's radicalism, by contrast, is more conventional. He tries to distinguish himself from Wood, but is only partly successful. Nash's book, like Wood's, concludes that "ordinary Americans were done with deference." Both historians also are drawn to the state constitutions that Wood explored so influentially in

his monumental *The Creation of the American Republic* (1969), concluding that the American state-republics constituted sites for democratization, making possible future experiments with "participatory politics" and an expanding electorate. Wood may be more comfortable with ordinary, middling folk, and Nash with groups that are oppressed by their "betters," but wherever the impulse for democratization comes from, the political and constitutional means are critically important: they are the channel through which the democratizing "mainstream" flows. In that sense, Nash's book highlights the progressive foundation of Wood's work, as much as Wood's book underscores the Americanism of Nash's.

IN THE END, NASH FAILS TO MAKE HISTORICAL sense of the process of nation-making. Readers of this book might well wonder how Nash's narratives fit together. His informative account of the miserably underpaid, neglected, and largely foreign-born Continental Army underscores the "difficulties of managing a war that only about a quarter of the nation's peoples supported ideologically and an even smaller number supported materially." That very story, however, raises the question Nash overlooks: how did the Americans mobilize sufficient force across a fractured social landscape to sustain even the semblance of a "common cause"? Having discovered a "nation" in his unknown revolutionaries, many of whom actually opposed the Revolution, Nash can't explain how and why some groups acted together *in their own time*—and, to that extent at least, thought of themselves as "Americans"—while others were indifferent or hostile. By highlighting the formidable obstacles to patriot success, Nash (perversely, from his point of view) celebrates the heroic achievements of revolutionary leaders. Only by doing the hard political work of forging alliances across class lines and across the continent—alliances that proved just durable enough to survive battlefield setbacks, imploding finances, and pervasive war-weariness and demoralization—did those indispensable "founding fathers" win the war.

The nation-making process and its ideological and institutional concomitants gave rise to the emerging national identity, however tenuous and conflicted, that still frames our self-understanding. The survival of the republican union was a near thing. The founders themselves called it an "experiment." Its survival was by no means assured until the original, far from perfect union was demolished, and the nation given a new birth of freedom. The nation-making coalition certainly democratized politics, but the new nation's protean character pointed toward many possible futures, many of which we now disown.

The sources of our own, presumably more enlightened, conception of nationhood are *not*, as *The Unknown American Revolution* unintentionally makes clear, distinctively "American." According to at least some of the founders, the new republic rested upon truths available to men in all places, and at all times. If Nash is correct that his "unknowns" were the real revolutionaries, we would have to conclude that the "real" revolution was the counter-revolution, a strange conclusion indeed. Might it not be more historically accurate to suggest that the Americans participated in a *worldwide* antislavery campaign that built upon the anti-slavery elements of the founding to change the prevailing opinions in America and elsewhere? Conceptions of American nationality—of *any* nationality—are "mediated" through a constant renegotiation of the universal and the particular, between ideas of the nation and of the world. Why should this be so troubling? Why are historians so reluctant to jettison their exceptionalist assumptions? Doing so would allow Nash to escape his radically romantic (or, perhaps, romantically radical) conception of American nationhood and situate our history in a broader, more inclusive interpretive framework. Why can't we look beyond ourselves to better understand how "we"—to the extent we are a "we"—came to be who we are?

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REGIME CHANGE

The Failure of the Founding Fathers: Jefferson, Marshall, and the Rise of Presidential Democracy,
by Bruce Ackerman. Belknap Press, 400 pages, \$29.95

IT WAS PROBABLY INEVITABLE THAT EVENTUALLY an academic would rewrite the history of the American Founding in his own image. Bruce Ackerman, Sterling Professor of Law and Political Science at Yale University, has selected, molded, distorted, and recreated the events of the 1800 election and its aftermath to suit his view of what the Constitution ought to be. It's a pity. Written with a vibrant narrative style, *The Failure of the Founding Fathers* highlights such overlooked or underappreciated facts as the framers' lack of judgment in putting the vice president in charge of counting electoral votes, and the truly heroic efforts of Federalist Congressman James Bayard to break the famous impasse between Thomas Jefferson and Aaron Burr.

Nonetheless, the book fails because it is not a work of history at all, but rather an argument constructed to advance an ideological and political agenda. Ackerman wants to delegitimize the Electoral College and to undermine the founders' authority. This is part of his larger project, begun with his *We the People* series (Volume 1: *Foundations*, 1991; Volume 2: *Transformations*, 1998), to deconstruct American constitutional law and strip any normative authority from the original document. In 2001, he famously argued that the Senate should not confirm any of George W. Bush's future Supreme Court nominations because of the Court's "vulgar partisanship" in *Bush v. Gore*, which had enabled Bush to gain Florida's electors and so win the presidency, though without carrying the popular vote.

Ackerman is well aware that originalism has gained the high ground in constitutional interpretation and that its opponents often have been reduced to fighting rear-guard actions based on *stare decisis* or, at best, to making tactical advances under such opportunistic rubrics as "active liberty." He knows that academic scholarship on the founding has reached such a high level of sophistication that it has been used to understand and decide constitutional cases. He also knows that popular interest in the founders' lives has produced a score of recent bestsellers by respected historians. So Ackerman has gone for the nuclear option: undermine originalism by picturing the founders as nothing more than an 18th-century version of Tammany Hall.

The Electoral College stands in the way of

a popularly elected president. But this barrier was weakened, though not entirely dismantled, by the "revolution of 1800." The admitted flaw in the original version of the Electoral College left Jefferson and Burr tied for the presidency and threw the election into the House, where the lame-duck Federalist Congress sought to turn the result to its party's advantage. Jefferson insisted that "the people" had spoken and that their decision should be honored. According to Ackerman, the denouement was the struggle between Jefferson and Chief Justice John Marshall that led to a new synthesis between the formalistic Constitution and the "plebiscitary" presidency. This new synthesis, which the author calls (not too subtly) the "living" Constitution, broke free from those parts of the 1787 Constitution that had proven contrary to the needs of the developing polity.

On the way to that conclusion, the book is strewn with an astonishing number of historical omissions, mischaracterizations, misinterpretations, and misunderstandings. To begin with, Ackerman's use of "plebiscitary" to describe the presidency established by the 1800 election is historically inaccurate, implying something like a Napoleonic outcome. Years before, in 1783, George Washington had vehemently rejected such a Napoleonic scenario when some of his officers had proposed marching on Congress and making him king—a stroke that might have been enthusiastically approved by "the people." Far from lusting for power, Washington regarded his unanimous elections to the presidency as a call to duty, which he reluctantly, but with complete dedication to republican virtue, accepted.

Of course, many of his opponents suspected Jefferson himself of harboring Napoleonic ambitions. After all, he strove mightily through most of his presidency to create a one-party state, and he was not shy, as historian Forrest McDonald points out, to use the American army against the people in enforcing the disastrous 1807 Embargo. During the uncertain days of early 1801, Jefferson warned that if the House denied him the presidency, armed militias might march on Washington and establish a new constitutional convention (and a new form of government). Nonetheless, not even Jefferson claimed to have been elected in 1800 because of the popular vote. Rather, he insisted that he

was president because of the *electoral* vote, and it was only a glitch in the Constitution's original mechanism (he and his would-be vice president, Aaron Burr, had tied in the Electoral College) that had permitted a dastardly Federalist Congress to try to frustrate the will of the *electors*. Jefferson's electoral majority (along with Burr's) had included votes from states whose legislatures, not whose voters, had chosen the electors who in turn voted for Jefferson. He never claimed victory until the South Carolina legislature (which many thought would opt for Adams) chose Jeffersonian electors in December 1800 and put him and Burr over the top. In other words, in the 1800 election, Jefferson was an originalist. He believed, as did the framers, that the first choice of the *electors* should be president.

THE JEFFERSONIAN REPUBLICANS IN Congress soon corrected the glitch with the 12th Amendment, which had directed electors to vote separately for the president and the vice president. Ackerman is disappointed that they did not opt for a wholesale change (or even abolition) of the Electoral College. But the reason is absolutely clear and flies in the face of Ackerman's central thesis. *Even the Republicans did not want a plebiscitary presidency.* They wanted to effectuate the will of the framers through a modest change in the electoral mechanism, which would, at the same time, accommodate the rise of political parties.

At bottom, Ackerman simply does not understand the full reason for the Electoral College. He correctly points out that one of its purposes was to distance the selection of the president from the passions and intrigues of faction; and he claims that with the rise of parties, this "filtering" function was largely vitiated. But not entirely. One of the post-1800 Electoral College's salutary accomplishments is that it provided a clearly legitimate president when the party system had broken down, e.g., in 1860 and 1912. Moreover, political scientists have long demonstrated that the Electoral College, with the developing tradition of winner-take-all in each state, works against a multiplicity of parties. The mechanism actually forces parties to seek coalitions among factions, thereby mitigating faction's deleterious effects and fulfilling the original purpose that the framers had in mind.

Furthermore, the Electoral College is another example of the framers' plan to include the states in the structure of the central government. As the Constitutional Convention progressed, the delegates realized that it was not enough to divide power between the central government and the states. By itself, that would inevitably engender serious conflict. Instead, the framers included the states as constituent elements in the central government. It was the people of the several states that ratified the Constitution. It would be the states, in one form or another, that would have to agree to amendments. The states would select the senators, and determine who could vote for the House of Representatives. They would set the time, place, and manner of holding federal elections (subject to congressional override). Even in the House, members had to reside in the states from which they were elected. The states would provide the militia needed by the central government. The states would determine how and when presidential electors would be chosen, and the electors would cast their votes in their respective state capitals. And if the Electoral College failed to reach a majority, the House of Representatives, voting as states, would determine the result. In his lifelong drive to interpret American government along the lines of majoritarian democracy, Ackerman is necessarily oblivious to the essential role of the states in the central government's structuring.

He seems not to appreciate sufficiently the reason why a fail-safe provision was inserted into the Constitution to have the House members vote as states. In many instances, such as in the Senate and the Electoral College (as well as in the amending process), the small states, for their protection, are overrepresented. Particularly in electing a president, where the large states would have an advantage (our first six presidents came from large states), providing each state with electoral votes equal to the number of its representatives and senators gives the small states a statistically significant advantage. This advantage is carried over into the House of Representatives if called upon to elect a president. This device actually prevented the lame-duck Federalist majority in the House from substituting Aaron Burr for Thomas Jefferson, a result that, as Ackerman properly notes, almost certainly would have led to a catastrophic constitutional crisis.

THE BOOK'S HARSHTEST CRITICISM IS reserved for John Marshall. Based on supposition, innuendo, questionable sources, and cheap rhetoric, Ackerman makes Marshall the piece's villain, whose only saving grace was to make a tactical retreat in the face of

Jefferson's victory. (While castigating Marshall, Ackerman goes out of his way to praise Aaron Burr's "statesmanship.")

Readers will not find here the Marshall so meticulously researched and elucidated in Jean Edward Smith's *John Marshall: Definer of a Nation* (1996), or in any of the other reputable biographies now available. Impugning Marshall's character allows Ackerman to indict one of originalism's signal heroes. He claims, for example, that Marshall possessed a "lust for power," that he was a "blinkered partisan." Both insults are unfounded. Marshall was well known for having turned down many offers of governmental position. Nearly all who dealt with him regarded him as a capacious personality, accommodating to the wants and opinions of others. In the seminal case of *Marbury v. Madison* (1803), he eschewed an interpretation of the 1789 Judiciary Act that would have threatened the separation of powers. It was his central purpose in *Marbury* to withdraw the Court from partisan involvement altogether (see my "The True Story of *Marbury v. Madison*," in *CRB*, Winter 2003). This was the opposite of a grab for power: *Marbury* embodied the practice of republican virtue in the judiciary. Ackerman's attack on Marshall's handling of William Marbury's commission is

an astonishing combination of invective and historical error. In fact, virtually all of Ackerman's understanding of *Marbury* comes from out-of-date scholarship. Thus he reports, for example, that Jefferson ordered Madison not to deliver the commission, when Madison was not even in town.

Although *The Failure of the Founding Fathers* offers a few insights, it is absolutely blind to notions of character. But one cannot understand the American Revolution, the framing of the Constitution, the ratification struggles, or the Federalist-Republican conflict without taking seriously the idea of public virtue. The struggles between Madison and Hamilton, or between Adams and Jefferson, may have been triggered by policy differences, but the heart of these and other divisions was the belief that the other man had lost his virtue. The fact is that neither the Federalists in the judiciary nor the Republicans in Congress accepted the idea of a "plebiscitary" presidency because it contradicted all their notions of republican integrity and self-control. In the end, it was the framers' original vision that rightly triumphed.

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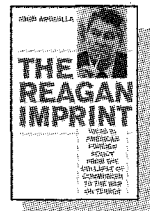
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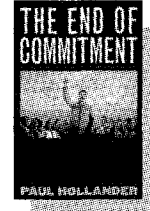
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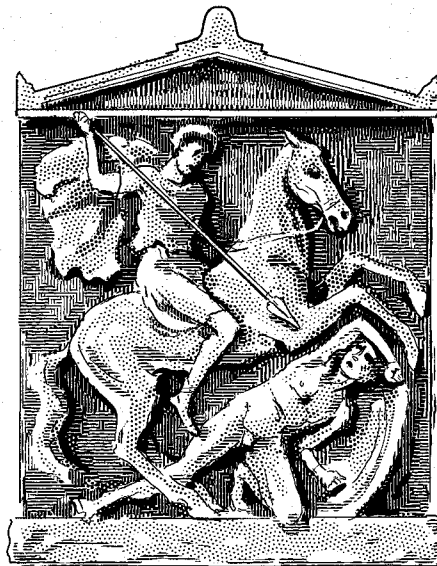
A War Like No Other: How the Athenians and Spartans Fought the Peloponnesian War,
by Victor Davis Hanson. Random House, 416 pages, \$29.95

ON MAY 12, 1962, GENERAL DOUGLAS MacArthur delivered at West Point the greatest improvised oration in American literature. The cadets heard a prose poem, held together by the refrain "Duty—Honor—Country" and enlivened with vivid images drawn from daily life ("My days of old have vanished, tone and tint") and the wisdom of the past. Their profession was not about to become obsolete, he told the cadets. "Always in our ears ring the ominous words of Plato, that wisest of all philosophers, 'Only the dead have seen the end of war.'"

MacArthur was right to call upon the ancients to reinforce what he had learned from a lifetime spent in the service of his country ("this beloved land of culture and ancient descent"). Americans sometimes forget that many of the intellectual and political traditions they enjoy, such as science, history, literature, and self-rule, began life in the ancient world. The gifted historian Victor Davis Hanson has argued convincingly for the antiquity and interconnectedness of democracy, agriculture, and war. For him the West was shaped by the family farm and what the founders called the yeoman farmer. Ancient Greek farmers preferred wars with few but decisive battles. This style of farming and fighting provided the context for the rise of science, philosophy, and the breathtaking literary achievements of Homer, Sappho, and Sophocles. After millennia these still stir our hearts and keep publishers and translators of the classics solvent. In Hanson's other books, like *The Western Way of War* (1989), *The Soul of Battle* (1999), *Carnage and Culture* (2001), and *Ripples of Battle* (2003), he has roamed the centuries to show us the classical tradition alive (and victorious) in Charles Martel and Cortés, at Rorke's Drift in Africa and Khe Sanh in Vietnam, in the American Civil War and World War II. Now he has returned to ancient Greece to write about what Thucydides, in his classic *History of the Peloponnesian War*, called "a war like no other."

Hanson uses the phrase for the title of his important book on what Thucydides, in his first sentence, termed "the war of the Peloponnesians and Athenians." We take the Athenian perspective and call it the Peloponnesian War. (It was the Attic War for Sparta, the major military power in the Peloponnesus.) Athens, Sparta, and their allies were at war

for much of the 5th century B.C. (especially when one counts the battles and political maneuvering of 460-445, sometimes called by modern classicists "the first Peloponnesian War"). Although they had fought side by side on sea and land against the Persian invasion of 480-479, within two decades the alliance that saved the West had been riven by suspicion, hostility, and finally war. The Attic historian Hellenicus viewed the great battles of 431-421 and 414-404 as two separate wars. It was Thucydides who argued that these episodes, separated by seven years of "unstable truce,"



constituted a single 27-year conflict, which had been predicted by an oracle, "the only one solidly confirmed by events." For other historians the loss of Athens's fleet in 406 and the destruction of her "Long Walls" in 404 did not mark the end. The accounts by Theopompus and Cratippus extended until Athens defeated the Spartan navy at Cnidus in 394.

In the end, Thucydides triumphed. The fighting between 431 and 404 is considered the Peloponnesian War. Thucydides (who served as an Athenian general) defined it and described it. Its two decade-long contests made it twice the span of Homer's Trojan War and far longer than Herodotus' Persian War. Although the latter wars were iconic for the Greek imagination, neither matched the Peloponnesian in the destruction and death visited on so many across so vast a territory. Thucydides' war was unique,

but he wanted his account to be exemplary. He wanted to show, that is, not only "what happened" but what, "based on human nature," would likely "happen again sometime."

He succeeded in writing a history that has haunted the imagination of Western man. "Former secretary of state George Marshall, critics of Vietnam, and contemporary opponents and supporters alike of the so-called war on terror have all looked back to find their own Thucydides and learn from the people who fought that most awful war so long ago," Hanson writes. Like Thucydides, he sees in this Greek civil war a story that allows us to understand later wars: "As he predicted, [Thucydides' history] serves as a timeless guide."

A WAR LIKE NO OTHER IS ORGANIZED thematically to explore various aspects of the war—fear, fire, disease, terror, armor, walls, horses, ships—each with examples drawn from Thucydides and Xenophon (who in his *Hellenica* picks up the story where Thucydides leaves off). Hanson supplements each topic with apt parallels from the history of Western warfare: the Crusades, Napoleon's campaigns, the American Civil War, the two World Wars, Vietnam, and the Israeli-Palestinian conflict.

Hanson is a deservedly influential historian, but he is an even greater teacher. The type of scholarship that sees in or makes of the past a foreign country is reputable and important. Teaching, however, is about enthusiasm, making connections, seeing continuities and parallels. It shows students that real people lived and died in these battles and have lived and died like that ever since.

Hanson's instinctive appreciation of Thucydides rejects the traditional view of him as a cold and amoral reporter of the facts, as though he were Machiavelli and Sgt. Joe Friday rolled into one. Yet the thematic organization of *A War Like No Other* might seem a rejection of the Thucydidean model. Hanson disagrees: "Far from his history being a yearly and comprehensive account of all the events of the war... Thucydides...offers up exemplary snapshots that ground his entire narrative in the human experience of killing." Thucydides' description of the siege of Plataea makes detailed accounts of all the other sieges superfluous, in the same way

that Pericles' Funeral Oration makes it unnecessary to end each year with another one. Nor does Thucydides always use the first example at hand. His spectacular account of the Athenians' brutal and cynical conquest of the little island of Melos comes years after their similar destruction of the little town of Scione, which he merely reports. He composed the famous Melian Dialogue, which stands at the end of Book V, to serve as the hubristic prelude to the Athenian invasion of Sicily (our Books VI-VII).

Hanson's account of the Sicilian Expedition reveals his characteristic strengths of vivid storytelling and trenchant conclusions. The chapter is titled "Horses: The Disaster at Sicily (415-413)." The agrarian hoplite citizen-soldier tended to ignore the importance of cavalry, which was the weapon of the wealthy. There are many factors behind the failure of Athens' invasion: a lack of accurate intelligence about Sicily, Syracuse's similarities to Athens as a wealthy commercial democracy, Alcibiades' flight to Sparta after his arrest, the death of the competent general Lamachus, and the caution or timidity of the remaining general, Nicias. As a military historian Hanson emphasizes Athenian weakness and Syracusan superiority in cavalry.

For Thucydides, the Sicilian Expedition is the war's tragic climax. The gods punish the Athenians for the moral atrocity of the sack of Melos by driving them mad, so that they listen to the siren song of the irresistibly handsome and winsome Alcibiades and ignore the solid good sense of the conservative Nicias. Hanson rarely mentions Nicias without some implicit criticism: "timid," "naïve," "slothful," and "pro-Spartan." Yet in Thucydides' account it is Nicias who warns the Athenians that lack of cavalry will be the downfall of the expedition. (Every danger he warns of comes to pass.)

The two historical visions are juxtaposed on the same memorable page. Hanson begins by quoting Thucydides' powerful description of the destruction of the Athenian army, cut down at the Assinarus River as they are drinking, exhausted by their retreat. He ends by quoting Thucydides' summary of the expedition: "This was the most remarkable occurrence of all those that transpired during the war—indeed as it seems to me of all the Greek events that we know of—one most illustrious for the conquerors and for the defeated most ruinous.... [T]heir land forces, fleet, and everything else perished, and few from many came back home." This was a war like no other.

Between the two quotations Hanson comments: "History is unfortunately replete with these awful scenarios of veteran infantrymen far from home who are destroyed by mounted enemies." He gives us a military litany: Crassus and his Romans at Carrhae in 53 B.C.; the Crusader army butchered by Saladin at Hattin in July 1187; Napoleon retreating before the Cossacks. For Hanson, this war is typical, not unique.

HANSON'S FINAL CHAPTER IS "RUIN? Winners and Losers (404-403)." The question mark is significant. Contemporary scholars no longer view the Peloponnesian War as the great historical divide it once seemed. The Athenians soon recovered and in 394, a short decade after their surrender, were able to defeat a Spartan fleet at Cnidus. Hanson does not end on that positive note, however, but with reflections on the human losses in the war. Every important Athenian commander (and many a Spartan as well) lost his life in battle or was executed or assassinated later. Ordinary Athenians died by the thousands on battlefields, on the high seas, or toiling hopelessly in the quarries of Sicily. Hanson ends with a short roll call of ordinary Greeks whose names we know from Thucydides and inscriptions. "[B]etween emotion and logic resides the fate of thousands of the mostly unknown...who will surely then and now be asked to settle through violence what words alone cannot." Read your local newspaper. It is not over. "Only the dead have seen the end of war."

And for the living, what are the war's lessons? Hanson observes near the beginning of his book, "Our leaders and pundits are eager to learn from the Athenians' mistakes and successes. They are unsure whether the fate of Athens is to be our own, or whether Americans can yet match the Athenians' civilization and influence while avoiding their hubris. Perhaps never has the Peloponnesian War been more relevant to Americans than to us of the present age."

He returns to the theme near the end. The powerful want to learn from the past how to win:

But Thucydides—and this is why he is truly a great historian—is too discerning a critic to reduce strife down simply to perceptions about power and its manifestations.... The Peloponnesian War...is not a mere primer for international relations studies, and the historian does not believe that 'might makes

right....' Instead, as he predicted, it serves as a timeless guide to the tragic nature of war itself, inasmuch as human character is unchanging and thus its conduct in calamitous times is always predictable.

I doubt that human nature, to use another term, is exactly predictable. But when we see what has happened, it usually falls into one of the patterns we have observed in the past. We modern men like to proclaim that "nothing is the same" after this or that important event. We want the lessons of the past laid out for us in PowerPoint presentations or books we can skim on the airplane. Give us the gist and, if you don't mind, spare us the history lesson.

Victor Davis Hanson, however, insists on the history lesson, beginning with the ancient Greeks. We like the parts about democracy, but are disturbed when Hanson begins talking about "the Greek creative talent for killing." "We should remember," he writes, "that the city-state—the embodiment of the beginning of Western civilization—did not start out so much to guarantee personal freedom for all residents as to ensure the protection of property for a new meritocratic middling class of landowners." Cicero and the American Founders would have agreed with the sentiments. We are free and creative and powerful not so much because we are "a new nation... dedicated to a proposition," but because we are, as General MacArthur said, "this beloved land of culture and ancient descent."

The minister in Robert Frost's "The Black Cottage" had an insight:

Most of the change we think we see in life
Is due to truths being in and out of favor.
As I sit here, and oftentimes, I wish
I could be monarch of a desert land
I could devote and dedicate forever
To the truths we keep coming back and
back to.

I have one quibble. Lands that are dedicated to the truths we keep coming back and back to are not deserts. They are full of farms and factories and families. Their citizens are also soldiers. Victor Davis Hanson tells their story.

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THE LONG TWILIGHT STRUGGLE



IN THE AFTERMATH OF THE ATTACKS OF September 11, a Yale University student asked one of her instructors, "Would it be OK now for us to be patriotic?" The professor, John Lewis Gaddis, widely regarded as the dean of American Cold War historians, replied: "Yes, I think it would."

Even allowing for the emotions of the moment, such a response from a prestigious Ivy League academic might seem a bit surprising in these politically correct times. Yale University was once home to Samuel Flagg Bemis, the preeminent U.S. diplomatic historian before World War II. Bemis is now widely ridiculed in the academy as "U.S. Flagg Bemis" for treating America as something other than a rapacious, racist, retrograde regime. Gaddis runs the same risk of professional ostracism. He told the story of his student in a controversial 2004 book, *Surprise, Security, and the American Experience*, in which he concluded that the Bush Administration's policy of strategic preemption, whatever its merits in the particular circumstances, did not depart radically from the American foreign policy tradition. Gaddis's latest work, *The Cold War: A New History*, intended for popular audiences, offers a conclusion that is equally guaranteed to set his colleagues' teeth on edge. "The world, I am quite sure, is a better place for that conflict being fought in the way that it was and won by the side that won it.... For all its dangers, atrocities, costs, distractions, and moral compromises, the Cold War—like the American Civil War—was a necessary contest that settled fundamental issues once and for all."

Beyond Orthodoxy and Revisionism

GADDIS, TO BE SURE, IS NO POLITICAL conservative, much less a cheerleader for the Bush Administration. He gained his professional reputation as the leading expositor of an interpretation of the Cold War known as post-revisionism, which emerged during the 1970s and 1980s. The traditional or orthodox school—always more of a popular or political viewpoint than an academically respectable one—had held that the Cold War was the result of unprovoked Soviet aggression, which left the Free World no choice but to organize in defense of civilization. The contrary view, revisionism, emerged during the Vietnam era as a variant of New Left history. The revisionists placed the blame squarely on the United States, which pressed relentlessly to take advantage of Soviet weakness after World War II in order to stave off what was perceived as the imminent collapse of capitalism.

Gaddis offered a nuanced alternative to both orthodoxy and revisionism, beginning with *The United States and the Origins of the Cold War, 1941-1947*, published in 1972. He drew heavily, if not explicitly, on the modern international relations theory of structural realism. From this perspective, neither Washington nor Moscow was immediately responsible for the emergence of a security competition in the aftermath of World War II. The two new superpowers were driven naturally into opposition by the forces of international politics. Both sought security and the prevention of a new war, not ideological or

economic dominance. Their views of security differed greatly, however, based on their distinct geographical situations and historical experiences, and as a result they found themselves caught up in a classic "security dilemma." Steps that one side took to increase its security, such as the formation of a defensive military alliance, were interpreted by the other side as threatening. The second side responded with its own defensively-intended measures, which in turn were interpreted as threatening by the first side; and so on. The security dilemma was intensified by the atomic bomb. Each side feared that the other would find a way to use that revolutionary weapon to gain a decisive strategic advantage.

For Gaddis and the post-revisionists, the U.S.-Soviet competition was thus an objective structural phenomenon of international politics. But security competitions need not turn into war, cold or otherwise. Diplomatic arrangements—such as sphere-of-influence agreements—could have moderated if not resolved the underlying tensions created by the security dilemma. What, then, accounted for the degeneration into a bitter, all-encompassing, and apparently enduring Cold War?

According to post-revisionist analysis, both sides were to blame. Domestic factors entered into the strategic equation and profoundly destabilized the superpower relationship. On the Soviet side, the regime's fundamental insecurity at home caused Moscow to project its fears outward and to adopt a belligerent and aggressive posture. The West could offer nothing in the way of concessions that would reassure Stalin.

This was the great insight that George F. Kennan, then an obscure American diplomat, set forth in his Long Telegram from the Moscow embassy in February 1946 and later in the famous 1947 "X" article in *Foreign Affairs* magazine. The United States, according to Gaddis and the post-revisionists, also faced domestic pressures that warped its sense of security. Some of these were accidental. The death of the worldly-wise Franklin Roosevelt brought into office an inexperienced Harry Truman, who fell under the sway of FDR's harder-line advisers at a critical juncture. Other domestic roots of American assertiveness towards the Soviet Union were less benign. The Democratic Party, for electoral reasons, was unwilling gracefully to accede to Soviet control of Poland. Democrats also feared accusations of softness on Communism after revelations of Soviet spying under Roosevelt. American foreign policy elites in both parties consciously inflated the Soviet threat to frighten public opinion into abandoning its traditional isolationism.

Strategies of Containment

THIS POST-REVISIONIST APPROACH SUGGESTED the importance of assigning the relative blame for the breakdown in U.S.-Soviet relations. If one side was principally responsible for turning a difficult security dilemma into an intractable ideological struggle, that side presumably should have taken—and might still take—the lead in moving the conflict onto a more moderate path.

Gaddis's most influential treatment of the question of relative blame came in *Strategies of Containment: A Critical Appraisal of National Security Policy During the Cold War* (1982; revised and enlarged, 2005), which immediately became the standard text on the subject. Gaddis followed sympathetically Kennan's analysis of the situation as it emerged during the critical years of the late 1940s and early 1950s. (The old diplomat and the rising young professor became friends and Gaddis is now writing a biography of Kennan.) Stalin had no grand strategy to dominate the world or Hitlerian desire for military conquest; he pursued rather an opportunistic strategy of filling power vacuums. The West was compelled to resist this Soviet campaign of subversion and intimidation through a counter-strategy of political and economic containment, which represented a sensible middle ground between an aggressive strategy of rollback and a return to isolationism or appeasement. Once the easy routes of expansion were closed to Moscow, Kennan concluded, the indirect pressure of containment and the forces of history would gradually transform the Soviet system.

Containment, according to Kennan and Gaddis, should have been limited geographically as well as instrumentally. It went askew, Kennan argued, when the United States grossly overreacted to a series of apparent strategic setbacks in 1949, most notably Mao's victory in China and the unexpectedly early detonation of the first Soviet atomic bomb. Paul Nitze, Kennan's successor in the State Department, was the villain of the piece. Nitze and other hardliners seized the moment to advocate, in a famous internal document (NSC 68), the pursuit of an aggressive political counteroffensive supported by a massive American military buildup and the expansion of the containment perimeter to encompass the entire globe. The

Books by John Lewis Gaddis discussed in this essay:

The United States and the Origins of the Cold War, 1941-1947. Columbia University Press, 396 pages, \$82.50 (1972)

Strategies of Containment: A Critical Appraisal of National Security Policy During the Cold War. Oxford University Press, 512 pages, \$18.95 (paper) (first printing, 1982)

The Long Peace: Inquiries into the History of the Cold War. Oxford University Press, 352 pages, \$19.95 (paper) (first printing, 1987)

We Now Know: Rethinking Cold War History. Oxford University Press, 448 pages, \$19.95 (paper) (first printing, 1997)

Surprise, Security, and the American Experience. Harvard University Press, 160 pages, \$12.95 (paper) (first printing, 2004)

The Cold War: A New History. The Penguin Press, 400 pages, \$27.95 (2005)

United States, by the post-revisionist line of analysis, became a victim of the classic mistake of all empires, strategic overextension, caused by an inability to distinguish vital from peripheral interests. Gaddis was hardly the first scholar to see a decisive shift in containment taking place around the time of the Korean War, but he offered the clearest account of what post-revisionist scholarship generally delineated as the dark and unnecessary transformation of American national security policy. If the Soviet Union had been principally responsible for the origins of the Cold War, the United States seemed to bear the onus for having radicalized, militarized, and globalized the conflict.

Gaddis did not ride this hobby horse as hard as did some other Cold War scholars. In *Strategies of Containment* he was interested primarily in evaluating the internal consistency of the various Cold War strategies. He discerned two basic strategic approaches: one sought to apply American strengths to Soviet weaknesses (asymmetrical containment); the other sought to match the Soviets across the board (symmetrical containment). Gaddis acknowledged that both approaches had advantages and disadvantages, but he tended to favor asymmetrical containment because it best matched cost-effective means with achievable foreign policy ends. If that framework of analysis led Gaddis to prefer Kennan over Nitze, it also produced more surprising judgments, such as a clear sympathy for Eisenhower's strategy of massive retaliation over Kennedy's flexible response approach.

The American foreign policy establishment, in the aftermath of the Vietnam War, happily embraced Gaddis's structuralist explanation of the Cold War and shared his taste for asymmetrical containment. Officials and think-tank policy analysts were relieved to learn from academic authority that they were not unconscious agents of American economic imperialism and that containment, rightly understood, was a legitimate means to legitimate ends. With appropriate adjustments in U.S. national security policy—more Kennan and less Nitze—they presumed that the "competition" with Moscow could be "managed" successfully. The national security community continued a process that had begun in the 1960s, turning to international relations theorists, social scientists, and economists for tools with which to alleviate the security dilemma. Predictability, transparency, and stability became the watchwords of the day. Viewed in this light the Cold War was not only natural and enduring—it was, in a perverse way, desirable. It was a means of keeping the United States engaged in the world and able to manage the global balance of power without war. Gaddis himself contributed to this line of argument with a 1987 book, *The Long Peace: Inquiries Into the History of the Cold War*, in which he predicted that historians of the next century might well look back upon the Cold War as a time of general peace and stability.

Reagan and the Cold War's End

OF COURSE, THE BÊTE NOIRE of the Cold War school of competition management and stability was Ronald Reagan. Reagan disdained détente, warned of evil empires, spoke of transcending both Communism and nuclear deterrence; yet he wanted to build more missiles on the ground and defenses in the sky. The academic com-

LONDONISTAN

By Melanie Phillips,
\$25.95, ISBN 1594031444



In this ground-breaking book Melanie Phillips pieces together the story of how Londonistan developed as a result of the collapse of traditional British identity and accommodation of a particularly virulent

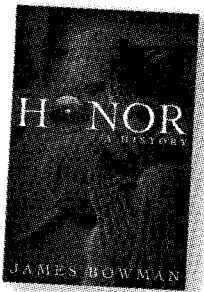
form of multiculturalism. Londonistan has become a country within the country and not only threatens Britain but its special relationship with the U.S. as well.

HONOR: A HISTORY

By James Bowman
\$25.95, ISBN 1594031428

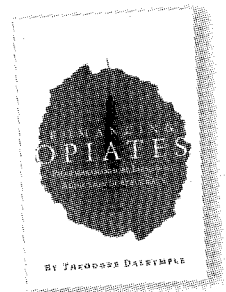
In this enlightening book, James Bowman traces the importance of honor from the earliest records of civilization to the present. He reminds us that the fate of honor and the fate of morality and even manners are deeply interrelated.

Bowman's book is an indispensable document in a time of growing concern about the erosion of values.



ROMANCING OPIATES: PHARMACOLOGICAL LIES AND THE ADDICTION BUREAUCRACY

By Theodore Dalrymple,
\$21.95, ISBN 1594030871



In *Romancing Opiates*, Theodore Dalrymple argues that addiction is not a disease, but a failure to come to terms with personal and existential problems — a failure compounded by a social bureaucracy

with a stake in perpetuating dependency. Drawing on a wide range of literary as well as medical sources, Dalrymple, himself a prison doctor for decades, presents a story that is at once harrowing and inspiring.

munity, along with the majority of the foreign policy establishment, was appalled. Reagan's strategy seemed a radicalized version of Paul Nitze's NSC 68. Even Nitze, who served in the Reagan Administration, was clearly uncomfortable with the new American assertiveness. Gaddis, surprisingly—though running as usual against the common wisdom—wrote favorably of Reagan, who he thought was pursuing a promising combination of symmetrical and asymmetrical strategies.

Then the Cold War came to a sudden and decisive end, flabbergasting diplomatic historians and international relations theorists. Gaddis, taking advantage of the wave of archival evidence flowing out of the former Eastern bloc and being translated and summarized by other scholars, staked out a landmark post-Cold War interpretation of the origins of the Cold War. In *We Now Know: Rethinking Cold War History* (accent on "now," rather than "know"), published in 1997, Gaddis put the blame for the worst of the Cold War on Stalin. Although Stalin did not have a master plan for a global Communist empire, he was a despicable tyrant who saw the world through the ideological lenses of Marxism-Leninism. Stalin sought to dominate Europe as thoroughly as Hitler had wanted to do. Stalin assumed initially that the forces of history would bring this about naturally, as the capitalists fell out among themselves. But when the capitalists actually united in resistance, Stalin was perfectly capable of helping history along if the opportunity presented itself, as when he gave Kim Il Sung a "green light" for the invasion of South Korea. Stalin—and, to a lesser extent, his successors—had a strong streak of revolutionary romanticism that might well have led to strategic disaster had the United States not responded appropriately. The United States, of course, often did not respond appropriately or wisely, but this was the distinctly minor theme of Gaddis's analysis.

The Cold War: A New History goes even further. Gaddis does not abandon his structuralist argument or withdraw the conclusion that the United States overreacted in 1949-1950. He also celebrates the fact that the Cold War did not turn hot. But as he now sees it, the stable Long Peace—especially as manifested in détente—actually proved to be unstable. The structural determinants of international relations, it turns out, include not only the pursuit of power and security but a sense of justice. National and popular frustrations grew because unfair arrangements once deemed temporary (such as a divided Europe) had become permanent. Public fear of nuclear war challenged the elites' reliance on nuclear deterrence as a tool of Cold War management. Those living in command economies resented the manifest failure to improve living standards. There was a slow

shift of influence from the supposedly powerful to the seemingly powerless, through the nonaligned movement, human rights organizations, and the like. The populations of captive nations were unexpectedly emboldened by new international standards for making moral judgments, such as the human rights provisions of the Helsinki Accords (1975).

Sensing these deeper historical trends, a few great "actor-leaders" found ways to dramatize them to make the point that the Cold War need not last forever. For Gaddis the greatest actor-leader (literally) was Ronald Reagan. "Reagan was as skillful a politician as the nation had seen for many years, and one of its sharpest grand strategists ever," Gaddis writes. "His strength lay in his ability to see beyond complexity to simplicity. And what he saw was simply this: that because détente perpetuated—and had been meant to perpetuate—the Cold War, only killing détente could end the Cold War." Others joined Reagan on stage, even though they were not all reading from the same script—Pope John Paul II (himself an actor as a young man), Margaret Thatcher, Lech Walesa, Vaclav Havel, and Deng Xiaoping. Finally there was poor Mikhail Gorbachev—completely at a loss to understand what fundamental change truly meant for his Soviet Union but aware that things could not go on as they were and, to his everlasting credit, willing to eschew violence and accept the verdict of history. Reagan, through decidedly un-Kennanesque means, had found a way to transform the Soviet regime.

According to Gaddis, not even these visionaries foresaw how soon and how decisively the Cold War would end. The final impetus was provided by ordinary people with simple priorities who saw, seized, and sometimes stumbled into opportunities to seek freedom (the East Germans, for example, who reached the West through Hungary when leaders there opened up the border). In doing so they caused a collapse no one could stop. Leaders had little choice but to follow, even if—like President George H.W. Bush, a confirmed member of the Cold War country club—they did so with great reluctance.

A Damned Close-Run Thing

THE COLD WAR: A NEW HISTORY, following on *We Now Know*, has been generally well received by the American foreign policy establishment, anxious to put itself on record as favoring the Right Side of History. But Gaddis has scandalized much of the historical profession by migrating, as they see it, from cutting-edge scholarship to iconoclasm to, of all things, orthodoxy. Beyond that, he now stands accused, by critics of cur-

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rent American foreign policy, of becoming a fellow traveler and tool of the triumphalists, those who celebrate victory in the Cold War as the vindication of American exceptionalism and of peace-through-excessive-strength.

Tony Judt sums up this case in the *New York Review of Books* (March 23, 2006): the untold story of the Cold War is not that of America's victory but of the costs imposed on unwilling bystanders caught up in the superpowers' struggle. America encouraged destructive civil and proxy wars such as Vietnam and Afghanistan; supported friendly dictators and brutal regimes, especially those in the Arab world; and brushed aside unfriendly democracies or progressive regimes, such as Chile and Guatemala. Gaddis says little or nothing of the tremendous collateral damage of the Cold War. The Soviets, of course, were equal partners in these crimes but at least they did not attempt to veil their brutality with hypocrisy. According to this anti-triumphal view, American triumphalists are oblivious to the deep-seated resentment and hostility to the United States that its Cold War policies generated, especially when coupled with the culture-destroying promotion of globalization. These worldwide grievances have grown into outright hatred as the Bush Administration applies the Reaganite/NSC 68 template to the so-called War on Terrorism, symbolized for the world by the disastrous war in Iraq and the abuses of Abu Ghraib. President George W. Bush acts in precisely the wrong way towards peoples already weary of American hubris and power. Wisdom lies in shaking free of the comfortable illusions, promoted by Gaddis and the neoconservatives, of a triumphant and virtuous America marching to a universally welcome victory in the war over terrorism, as it supposedly did over Communism.

Those who don't object to American strength and even the occasional triumph will also have some bones to pick with Gaddis. In *The Cold War* (although less so in his scholarly writings) he makes the process of waging the Cold War seem too easy, the outcome a bit too predictable. For those in the arena during the late 1970s, history seemed far from turning decisively in our favor. The West appeared in systematic decline if not on the verge of failure—even if one took a relaxed view of the Soviet military buildup and geopolitical gains during that decade. Capitalist economies stalled or declined in the face of apparently permanent high inflation. Oil was hideously expensive, in short and uncertain supply, without obvious alternatives. A popular novel

was built around the "Crash of 1979." Jimmy Carter and the Club of Rome proclaimed eras of malaise and limited resources. Reagan, Thatcher, and John Paul II did not come on the scene with unambiguous mandates to fix things. Reagan was elected overwhelmingly in the electoral college, but he barely received a popular majority and was widely denounced by the best and the brightest as a reactionary dunce. His popularity plunged sharply in the midst of a brutal recession in 1982, which threatened not only his reelection but his ability to sustain an assertive foreign policy. Millions took to the streets in Europe to protest American militarism and oppose the deployment of intermediate-range nuclear forces. The NATO alliance nearly buckled under the pressure.

Sometimes, statesmen at the highest level must stand up to the apparently inexorable currents of history rather than looking to ride them. These statesmen accept the risk of failure, even as they strive to deserve success. The successful end of the Cold War was actually a damned close-run thing, subject to a variety of unpredictable factors. Consider one of those historical counterfactuals of which Gaddis is so fond: suppose Reagan and the Pope had not survived their assassination attempts? Nor was a peaceful end of the Soviet empire foreordained by Soviet weakness. Sophisticated American observers at the time understood that the Kremlin was plagued by economic inefficiency, declining standards of living, ethnic unrest, the demoralization of the nomenklatura, and the lack of political legitimacy. But there was certainly enough slack in the system to make one final push against collapse if a vigorous, aggressive Soviet leader had emerged and played cleverly upon the deep divisions in the West—or was prepared to turn the Cold War hot. Conservatives feared that Gorbachev might be such a genius. Reagan, to his credit, realized that Gorbachev was actually another kind of genius, or fool.

Gaddis also reaches too easily the conclusion that the Cold War marked a radical, permanent devaluation of military power as an active ingredient in great power politics. He believes that nuclear weapons ended the era of great power wars because leaders on both sides slowly (too slowly) came to the realization that the Clausewitzian relationship between war and politics was no longer rational when humanity itself would be destroyed by war. But the Cold War was marked by an intense military-technical competition—a qualitative arms race—that

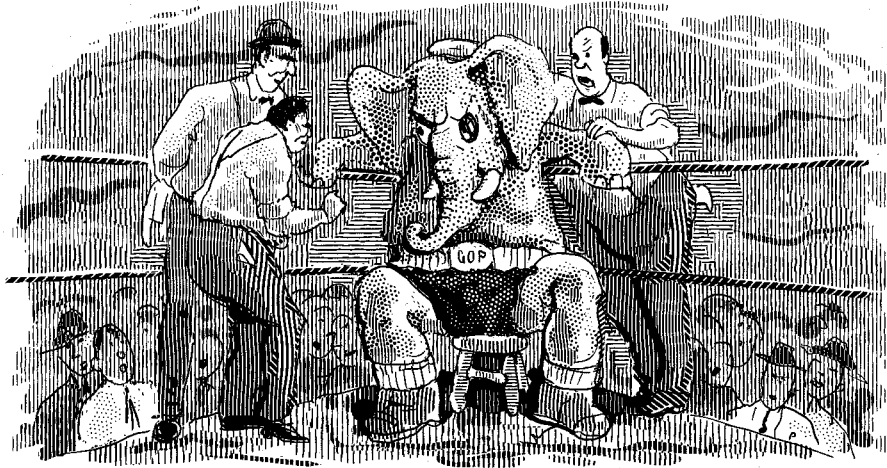
served as the functional equivalent of war, especially when that competition meshed with hot wars fought by proxies or by proxies against one of the superpowers. Nuclear weapons, and the policies surrounding them, came to function as the queens of the geopolitical chessboard. The U.S. military buildup of the late 1970s and early 1980s, when coupled with Reagan's Strategic Defense Initiative (meant sincerely by him as a step towards nuclear abolition) and with related efforts to subvert the Soviets' economy and political legitimacy, was designed, after all, to force the Kremlin to choose between retrenchment and collapse.

Reagan's strategy was risky because the Soviets had a third option. Although an assertive U.S. strategy was necessary to compel a dramatic and favorable shift in the strategic environment, this strategy accepted, and indeed encouraged, a dramatic short-term increase in tension. War was always a last-ditch option for the Kremlin—one that a faction of Soviet leaders actually advocated at the last moment to prevent the re-unification of Germany. It was not at all clear that public opinion in America or overseas would support American assertiveness; nor was it clear how the peoples of the Soviet bloc would weigh the prospects of liberation against those of a devastating crackdown or superpower conflict fought on their soil. The political stagecraft associated with the end of the Cold War, about which Gaddis rightly makes much, had a heavy military dimension that manipulated the fear of war even as it reassured public opinion and the allies. In the future, military power, and great power war itself, may matter in equally unexpected ways.

As the Cold War recedes into history, arguments about its causes and consequences will certainly continue, just as they have over the American Civil War. John Lewis Gaddis is a thoughtful, knowledgeable guide through these arguments. He does precisely what a good scholar should do. He hews to his own path. He offers broad yet serious interpretations that provoke as well as instruct. He changes his mind or at least modifies his argument as new evidence emerges. One may disagree with him, but only by clarifying one's own thinking. And in our world, it is greatly to his credit that he knows how a serious professor should answer a serious student's question.

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AFTER COMPASSIONATE CONSERVATISM



ON THE SURFACE, THE REPUBLICAN Party appears to be better poised now than at any time since Calvin Coolidge. Republicans have controlled both houses of Congress for more than a decade (interrupted briefly by Senator James Jeffords's defection in mid-2001), occupied the White House for the last five years, and held a majority of governorships since the 1994 elections. In short, the GOP has come a long way since 1968 or 1980.

So why are Republicans feeling so sour in 2006? Having now held power in Congress for over a decade, there is a sense that the corruption-fighting revolutionaries of 1994 have now become what they once opposed—a problem starkly symbolized by Duke Cunningham's boat house and Ted Stevens's bridge to nowhere. The Republican coalition, considerably bigger than it was in 1975, is now much harder to hold together. More generally, Republican discontent is driven by a growing sense of philosophical malaise—a sense that the party has become unmoored from its most basic philosophical commitments, and that elected Republicans no longer seek power to advance their principles but for its own sake. For Republicans, this transformation is potentially devastating.

Public Philosophy

AS PRESIDENT, GEORGE W. BUSH HAS advanced some of the sources of the Republican Party's strength. Clearly, he and Karl Rove have bolstered the GOP's ability to raise funds and turn out voters. Bush

has promoted the institutionalization of conservatism using strategic grants from the Department of Education and the National Endowment for the Humanities. He has nurtured the new media with strategies designed to increase its access and prestige. And in the wake of 9/11, Bush mobilized not only economic conservatives and social conservatives, but also the Republican coalition's crucial third leg, nationalistic foreign policy hawks.

Despite all of these gains, however, Bush has neglected the critical task—carried out by Barry Goldwater, Ronald Reagan, and Newt Gingrich—of advancing a public argument that connects his otherwise disparate policy decisions to a broader philosophical framework. He has failed to articulate the philosophical argument for limited government that once defined the Republican Party. At the same time he has failed to win broad acceptance for his alternative, so-called compassionate conservatism. To a large extent, he has abandoned the systematic promotion of public philosophy altogether.

Republicans have more to lose than Democrats by failing to advance a public philosophy. Because the policies they offer usually promise concentrated benefits and dispersed costs, it is easier for Democrats to assemble a coalition on the basis of material interest without direct reliance on general principles. In addition, the institutions primarily responsible for interpreting the world and conveying ideas to the public—the educational system, the mass media, and popular culture—advance liberal ideology on the Democrats' behalf. Although Republicans now have some alternative institutions

and media outlets to promote the conservative cause, much of the burden still rests on the party itself.

For four decades, the Republican electoral realignment kept rolling due in part to the party's substantial efforts to persuade the nation of conservative principles. Because Reagan made a persistent argument, today's 30-44 year-olds who came of age during his presidency are some of America's most Republican-leaning voters. There is no evidence that a similar "Bush cohort" will arise: in 2004, the youngest voters gave John Kerry his biggest margins. Reagan's oft-repeated vision of limited constitutional government played an important role in putting Chief Justice John Roberts and Justice Samuel Alito on their path to the Supreme Court. It is far from clear that Bush will inspire the next generation of conservative jurists to take their place.

Compassionate Conservatism

REPUBLICANS MUST START WITH NATIONAL security—without question the first priority of the national government. In an age of terror, the consequences of failure on this front would be catastrophic. Furthermore, the defense of the nation is one of the few tasks of the modern federal establishment that is firmly grounded in a constitutional mandate. If Americans get this issue wrong, nothing else will matter. Politically, national security is the glue that holds Republicans together, and the best single explanation for Bush's reelection and increased Republican congressional majorities since 2000. Indeed, it is one of the few areas in

recent years where the public has perceived Republicans to be the stronger party.

Consequently, for both policy and political reasons, Republicans cannot afford to falter in the national security arena or to allow themselves to be outflanked by Democrats. Bush must connect his policy of democratizing the Middle East to hard American national interest; otherwise, he may lose the support of the group *National Review's* Richard Lowry has called the "To-Hell-With-Them Hawks." In general, however, Republicans will continue to agree on both the primacy of national security and the core content of national security policy.

It is in the realm of domestic governance that Republicans will have to come to terms with what they want to stand for. Compassionate conservatism is at the center of that debate. Long viewed with skepticism by many conservatives—for good reason—compassionate conservatism has meant, in general, de-emphasizing the rhetoric of limited government, federalism, and other constitutional principles, pressing policies designed to appeal to targeted minorities, and all the while keeping the GOP's conservative base mostly intact.

More specifically, it has meant large tax cuts without any accompanying spending restraint, colossal new education and Medicare programs, and efforts to create an "ownership society" by introducing elements of accountability and choice into existing programs. Compassionate conservatism has also included adherence to social conservatism, though its advocates are reluctant to trumpet this relationship too loudly. Indeed, the Bush team has been unwilling to highlight issues, e.g., affirmative action, that threaten to put sharp edges back on the Republican image.

Its supporters have argued that compassionate conservatism has narrowed the gender gap, pulled up the GOP vote among blacks (by a bit) and Hispanics (by more), and softened the harsh reputation associated with the "Gingrich-Dole Republicans" of the 1990s. In their view, limited government, though perhaps a sufficient doctrine for a minority party, had little to offer Republicans when they became the majority. Compassionate conservatism, however, offered a forward strategy for Republicans who, realistically, could not expect to roll back big government very far, if at all. Finally, while limited government conservatism delivered some smashing successes for Republicans at the presidential level in the 1980s and in Congress in 1994, it never could have achieved unified Republican control of government (so the administration argues) in the way compassionate conservatism did in 2002 and 2004.

Whatever the flaws of this analysis—and there are many—Republicans cannot avoid the

fact that compassionate conservatism was devised as a response to real strategic dilemmas. Republicans needed, and need still, a positive agenda as a governing party, a way to appeal to women and Hispanics, and an image that is less severe than the one that had emerged from the 1990s.

But even if Republicans cannot throw compassionate conservatism overboard, they should not retain it as the focus of future strategy. Among presidential programs, compassionate conservatism most closely resembles in its strategic aims Dwight Eisenhower's "Modern Republicanism" and Bill Clinton's "New Covenant"—other presidents' attempts to enhance their party's reputation by muting principles held by a majority of its members. These earlier examples do not bode well for Bush's experiment: although Eisenhower's and Clinton's projects met short-term political exigencies, neither demonstrated staying power.

It is notable that hardly anyone has promoted compassionate conservatism as the best available policy. Hardly any of its advocates have attempted to demonstrate that limited government, from the standpoint of good policy, is no longer a preferable option. Yet the starting point of policy should always be the question of what is best for the country. Indeed, Republicans have long maintained that good policy will ultimately be good politics, even if in the short term it is not always so. Translating that precept into the terms of the current controversy, if Friedrich Hayek, Milton Friedman, Barry Goldwater, and Reagan (not to mention the framers of the Constitution) have been invalidated—if the laws of economics and the laws of human nature have changed so that centralized state power no longer threatens prosperity, liberty, or civic virtue—then by all means, the argument for limited government should be allowed to slide into disuse. If not, Republicans must find a way to make the argument for limited government more compelling.

Limited Government

THE REPUBLICANS' MOVE AWAY FROM the conservatism of limited government has led to a number of political difficulties. For one thing, compassionate conservatism has foreclosed the use of a number of hard-edged issues (like welfare reform reauthorization) that could have given Republicans considerable traction against recalcitrant Democrats. Furthermore, if, as seems probable, most Republicans have only bought into compassionate conservatism as a tactical device, then that opportunism will bring its own punishment. Indeed, it is already doing so. Because voters are not fools, and because a rough

moral justice exists even in the world of politics, no party should ever adopt an approach that it does not believe in. Now Republicans find themselves responsible for a number of policies they consider unpalatable and perhaps even indefensible, but from which it is impossible to retreat gracefully.

Whatever the political difficulties, only when Republicans have pushed the limited government argument the hardest—under Reagan in the '80s and Gingrich in the mid-'90s—has the growth of domestic government significantly slowed. Supporters of compassionate conservatism have argued, correctly, that Republicans have never succeeded in substantially cutting back government. But when Republicans have tried hard, they have at least succeeded in slowing its growth; when they have not tried at all, it has run amok, whether under Democratic or Republican administrations. In any event, though it is difficult for Republicans to cut programs that Democrats have ballooned, it is harder and more embarrassing to have to cut programs that have ballooned under the GOP's own stewardship.

Compassionate conservatism has systematically pushed Bush toward deals in which he has gotten neither enough good policy nor enough political payoff to justify what he has had to surrender. In any game of negotiation, the starting point is quite important to the outcome. To take two important cases, Bush's starting point on education and prescription drugs was itself a major concession, so the further compromises necessary to secure passage pulled the legislation even deeper into liberal territory. The promised benefits of choice and accountability, offered as realistic departures that could make liberal programs more conservative, have proven much less popular than advocates had expected and have been whittled down to a mere shadow in bill after bill. What remains is a major expansion of government. In contrast, his 2003 tax cut was a real victory, despite being cut in half by Congress, because the starting point was strongly conservative and compromises left a bill that still significantly moved policy to the right.

Altogether, it seems unlikely that compassionate conservatism can carry the political weight assigned to it, or that limited government conservatism is the political loser that compassionate conservatives claim. The Republican Congress in 1994 owed its election to the public's rejection of the big government opening act of Bill Clinton's presidency. When the chips were down, even Bush returned—at critical junctures in the 2000 GOP primaries, the fall of 2000, and the fall of 2004—to anti-big government themes. He performed better at the ballot box among Hispanics than did Reagan, but worse among women. While the gender

gap narrowed in 2004 in comparison to 1996 or 2000, Bush still lost the women's vote; and in any event, the national security issue rather than compassionate conservatism explains his wider appeal. In contrast, the more limited government-oriented Reagan actually *won* the women's vote in 1984, as did Bush's father running as a Reagan Republican in 1988.

Social Conservatism

SINCE THE BEGINNING OF THE REPUBLICAN ascendancy, no Republican presidential candidate has won without successfully appealing to social conservatives alongside economic conservatives. By deemphasizing the themes of limited government and economic freedom, compassionate conservatism arguably threatens the Republican coalition at its most basic level. Bush has upset the coalition's balance by allowing limited-government conservatism to atrophy relative to social conservatism. Well aware of his father's tale of woe, he has given great attention to cutting taxes, but he has underestimated the importance of spending control, deficit control, and limited government rhetoric to economic conservatives, as well as to self-described moderates.

In the end, Bush is no more socially conservative than Reagan, in policy or in rhetoric. Even Goldwater, later touted as something of a libertarian, ran a socially conservative campaign in 1964, during which he gave a half-hour, nationally televised address condemning the Supreme Court's decision banning prayer in public schools. Bush's social conservatism stands out more because his limited-government conservatism stands out *less*. Ironically, this is a version of the problem Bush's father had in 1992, when he had to appeal strongly

to social conservatives because his 1990 tax increase had alienated so many economic conservatives. Both Bush's approach and its opposite—the view, widely held in the mainstream media, that the GOP would do well to cut loose the social conservatives—fail to account for an important fact: a very large number of Republican voters are both limited-government *and* social conservatives, perhaps more than are in either group alone.

Indeed, social conservatism can and should be defended as necessary to the maintenance of a free society. Reagan used to argue for conservative stands on family and religion by asserting the centrality of both to the moral infrastructure of limited government. This argument can be made on issues as controversial as abortion, same-sex marriage, and embryonic stem-cell research—but only if Republicans adopt a strategy of persuasion to complement their strategy of mobilization.

Despite significant differences between the older conservatism and compassionate conservatism, they have numerous policies in common. These include tax cuts, privatization and choice provisions in government programs, encouragement of voluntarism, and an alliance with social conservatism. Compassionate conservatism could be said to be limited-government conservatism minus fiscal restraint, a discourse on constitutionalism, and a disdain for politically correct shibboleths.

Thus it might be easier than many assume to attach some features of compassionate conservatism to a reinvigorated Republican message focusing on limited government. Such an approach would include:

- holding the fiscal line on both taxes and spending;

- re-energizing a public philosophy of constitutionalism and limited government;

- supporting a measured cultural traditionalism;

- incrementally introducing mechanisms for greater choice and accountability into existing public programs;

- concerted campaigning in the black and Hispanic communities on the basis of moral and religious standards, as well as entrepreneurship;

- continuing to promote the vitality of civil society.

Such a mix can serve as a program for Republicans in either the majority or minority, and would be true to the genuine convictions of most Republicans while attending to the concerns that engendered Bush's alternative. The principle of no (or few) new programs and restrained spending on old ones is essentially negative in character; application of the "ownership society" to existing big government is essentially positive.

Republicans have won a great many things in the last five years, but they have lost something precious, as well: their reputation as the constitutional party, the party that is realistic about what government can accomplish, the "adult" party. America needs an adult party. In 2008, Republicans will have to decide whether to give it one.

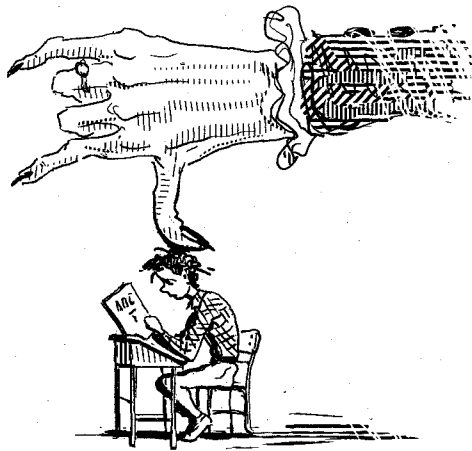
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READING, WRITING, AND REFORM

Education Myths: What Special Interest Groups Want You to Believe About Our Schools—And Why It Isn't So,

by Jay P. Greene, with Greg Forster and Marcus A. Winters.

Rowman & Littlefield, 280 pages, \$24.95



IN EDUCATION MYTHS, JAY GREENE PULLS off an impressive feat: an examination of complicated education research that is both engaging and useful to the general reader. In doing so, he convincingly disproves 18 common beliefs about public education, ranging from the Class Size Myth ("small classes would produce big improvement") and the Teacher Pay Myth ("teachers are badly underpaid") to the Graduation Myth ("nearly all students graduate from high school") and the Segregation Myth ("private schools are more racially segregated than public schools"). Greene is an outspoken critic of existing educational practices and a defender of both vouchers and No Child Left Behind. But *Education Myths* is no polemic. It is a serious piece of applied policy research.

Greene's first chapter, "The Money Myth," attacks the conventional wisdom that public schools are chronically underfunded. He observes that inflation-adjusted per pupil spending doubled between the end of World War II and the mid-1950s, doubled again between the mid-1950s and early 1970s, and doubled yet again between 1970 and 2000. Contrary to the conventional bumper-sticker wisdom, we now spend more on public education than on the military. Yet over the past 35 years test scores have remained flat. Why have large increases in spending done so little to boost scores or narrow the black-white achievement

gap? Greene shows that neither special education nor increasing rates of poverty and single-parent families are to blame (myths #2 and #3, respectively). The fault, he argues, is not in our stars, nor in how much we spend—but in how we spend it.

Reducing class size (myth #4) is one expensive (multi-billion dollar) reform that has largely failed. A widely publicized Tennessee experiment did indicate that a reduction in class size can improve test scores—but one time only, and marginally so. At the same time, decreasing class size requires hiring more teachers, which, as California discovered, reduces the quality and experience of the educational workforce.

GREENE IS EVEN MORE SKEPTICAL OF efforts to improve teachers' academic credentials. Not only is taking more "education" courses unlikely to improve classroom performance, but bolstering such requirements tends to "drive promising candidates away from teaching, while attracting candidates who are good at getting certificates rather than good at teaching." This is just one of the ways in which the perverse incentive structure in public schools—especially pay scales—discourages those with energy, ambition, and intelligence from entering and remaining in the profession. In his conclusion, Greene argues that educa-

tion's central challenge is figuring out how to use incentives to produce better results.

Since Greene defends high stakes testing (myths #10-12) and school choice (myths #13-18), and criticizes teachers' unions in virtually every chapter, he will doubtless be defamed in some quarters as a "conservative." Ironically, these days liberals are the ones defending the educational status quo, while so-called conservatives demand structural change. Indeed, one might define a contemporary liberal as one who champions personal choice in all realms of life except the education of (other people's) children. Defending the status quo often leads liberals, incongruously, to underplay the extent to which public education fails racial minorities. One of the most depressing chapters in Greene's book shows that graduation rates are far lower than most professional educators admit, especially for minority students (myth #8): "Only 51 percent of black students and 52 percent of Hispanic students graduated from high school with a regular diploma in the class of 2001." Perhaps Greene's greatest achievement is to explain why we should be deeply disturbed at the performance of our public schools, but not despair over the prospect of improving them.

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THE SUPREME COURT V. THE CONSTITUTION OF THE UNITED STATES OF AMERICA

*If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed
by decisions of the Supreme Court...the people will have ceased to be their own rulers,
having to that extent practically resigned their Government
into the hands of that eminent tribunal.*

—Abraham Lincoln

THE PROPOSITION THAT THE FEDERAL judiciary is the *fons et origo* of constitutional meaning has in our time acquired the status of a religious conviction that only fools, cranks, or the impious would contest. The dogma of judicial supremacy draws added strength from two related beliefs, namely, that a written Constitution implies no less and that its roots can be traced to the American founding era. Did not the Great Chief Justice declare as much in his celebrated opinion in *Marbury v. Madison* (1803)?

The answer is that John Marshall did no such thing, notwithstanding that *Marbury* is commonly cited in support of the proposition. Judicial supremacy is in fact a thoroughly modern development that scarcely antedates the late 20th century. It was invented, not surprisingly, by the Supreme Court itself and asserted for the first time in *Cooper v. Aaron*, the 1958 Little Rock schools case. The justices, whose patience had been exhausted by the opposition to *Brown v. Board of Education* (1954), there decreed that its decisions were “supreme in the exposition of the law of the Constitution.” No prior Court had ever made such a broad claim, and none had ever declared, as the *Cooper* opinion did, that the Supremacy Clause effectively equated the authority of federal judicial opinions with that of the Constitution’s text. One can sympathize with the justices’ ire in the face of Southern “massive resistance,” and had their claim of supreme authority been limited by the immediate context of school desegregation, one might chalk it up to rhetorical hyperbole prompted by justifiable anger.

Judicial Innovations

THE COURT’S DECLARATION, HOWEVER, did not long confine itself to the conditions that occasioned its birth. In the ensuing decades, the justices have reiterated their claim of exegetical supremacy on numerous occasions. Significantly, their most forceful

assertions seem to occur in cases in which the Court has broken new ground, or in which the justification for one of its prior novelties has been aggressively challenged. In *Planned Parenthood v. Casey* (1992), for example, the Court faced just such a challenge to its abortion decisions. While noting the severe criticisms that had been leveled against *Roe v. Wade*’s reasoning (1973), the justices nevertheless rejected the argument that *Roe* should be reversed. Overruling *Roe*, it averred, would not only undermine the Court’s authority as the definitive interpreter of the Constitution but, no less, undermine the very rule of law

Books discussed in this essay:

*Originalism in American Law and Politics:
A Constitutional History*, by Johnathan O’Neill.
Johns Hopkins University Press,
296 pages, \$55

*Active Liberty: Interpreting Our Democratic
Constitution*, by Stephen Breyer.
Alfred A. Knopf, 176 pages, \$21

itself. Indeed, American citizens’ desire to live according to law, the plurality opinion said, “is not readily separable from their understanding of the Court invested with the authority to decide their constitutional cases and speak before all others for their constitutional ideals.” Having invested the judiciary with the authority to declare “constitutional ideals,” among them the protection of liberty, the opinion went on to define liberty as a category without apparent limits: “At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.” Perhaps, but we have only the Court’s word for it. Armed with that definition, one could drive a bulldozer through every statute book in the country, which is precisely what many accuse the Court of having done these past 40 years.

Lest there be any doubt about the reach of this newly declared monopoly power over the definition of “constitutional ideals,” Congress soon joined state legislatures on the judicial target list. In *City of Boerne v. Flores* (1997), the Court sharply limited congressional power to interpret the Constitution under Section 5 of the 14th Amendment, notwithstanding the clear language and history of that provision. The justices have thus far been wary about asserting their exclusive interpretative franchise against presidential interpretations of Article II, particularly during wartime, but what in the Court’s doctrinal theory will stay its hand? For all we know, the unpopularity of the war in Iraq may present the justices with an occasion to tread deeper into this territory as well.

The modern Court’s presumption about the nature and scope of its powers would shock the authors of the original Constitution and the 14th Amendment, not to mention the overwhelming majority of justices who ever served. John Marshall, for one, would shudder at the thought that *Marbury* had become the springboard for claims of unchallengeable judicial prerogative. Abraham Lincoln, whose reflections on *Dred Scott v. Sanford* (1857) may have taught us more about the relation of Court power to “constitutional ideals” than anything before or since, would be likewise astonished. Lincoln’s views, especially as set forth in his First Inaugural Address, were but a pithy re-statement of an understanding more or less universally acknowledged by leading statesmen of his day and, before them, by every member of the founding generation. Here, for example, is James Madison on the floor of the House in 1789 during the debate on the removal power:

I acknowledge, in the ordinary course of government, that the exposition of the laws and Constitution devolves upon the judicial. But I beg to know upon what principle it can be contended that any one department draws from the Constitution

greater powers than another in marking out the limits of the powers of the several departments. The Constitution is the charter of the people to the government; it specifies certain great powers as absolutely granted, and marks out the departments to exercise them. If the constitutional boundary of either be brought into question, I do not see that any one of these independent departments has more right than another to declare their sentiments on that point....

What current doctrine may lack by way of historical pedigree has been more than compensated by the Court's increasingly bold assertions of power over an ever-expanding list of subjects. The justices have rewritten inconvenient constitutional history to suit fashionable ideological preferences, conjured novel constitutional rights and legal theories out of thin air, uprooted many well-settled norms of American political culture, and all but decreed that the Constitution incorporates postmodern conceptions of moral autonomy. Specifically, the Court has converted the 14th Amendment into a free-roaming license to second-guess state regulations it doesn't like. It has endowed the Due Process and Equal Protection Clauses of that amendment with new substantive content and applied virtually all of the Bill of Rights against the states, employing vague criteria such as "fundamental fairness," "evolving standards of decency," or "democratic ideals" to strike down state laws. Beginning in the 1960s, it applied these and similar tests to write what was in effect a national code of criminal procedure and, in the reapportionment decisions, to impose a constitutionally suspect and historically unprecedented theory of representation. With few exceptions, it has continued the process, begun decades before, of eviscerating the 10th Amendment and expanding congressional power under the Commerce Clause to sanction almost anything Congress wishes to do in the name of economic and social welfare. In combination, the Court's rulings have radically altered the balance of power between the national and state governments, far beyond anything contemplated by the original 14th Amendment. Indeed, it would not be too much to say that state power now exists largely at the sufferance of varying Supreme Court majorities.

The justices have also substantially altered the meaning of both the free speech and religion clauses of the First Amendment, and among other things read into both their own predilections about autonomous individualism. As a result, pornography runs free while religion is increasingly treated as a toxic presence in the

public square. The Court has also concocted a constitutional right of privacy, which it found in "penumbras, formed by emanations" of no fewer than five amendments. In subsequent cases, it ruled that this hitherto undiscovered principle encompassed yet another constitutional novelty, the right to abortion. The privacy and abortion decisions, in turn, established the intellectual foundation for *Lawrence v. Texas* (2003), which yielded still another constitutional right, that of consensual sodomy. One has no confidence that the process of conjuring constitutional novelties will end there. Indeed, the open-ended theory of individual autonomy advanced by Justice Anthony Kennedy to justify the results in *Casey* and *Lawrence* cannot be easily cabined. As Justice Antonin Scalia pointed out in his blistering *Lawrence* dissent, Kennedy's rationale necessarily casts constitutional doubt on virtually every government effort to regulate morals.

A New Constitution

IF ONE STANDS BACK FROM THESE JUDICIAL innovations (and the foregoing constitutes only a partial list) and compares the Constitution of 1960, say, to the Constitution described by the Court today, the difference is stunning. And virtually all of the difference may be attributed to judicial innovation, notwithstanding that the constitutional text, in the decisively important areas, has remained the same. At the risk of only slight exaggeration, it may be said that the Supreme Court has given us a new Constitution. The Court's sweeping departures from traditional understanding and precedent, to be sure, have been nominally justified by reference to a particular constitutional clause or phrase. The justices, after all, are smart lawyers who know how to connect linguistic dots and, when necessary, to construct a judicial version of law-office history to support their conclusions. But lawyerly skill only serves to disguise the radicalism of many of their ventures. Upon close examination the chosen nexus between text and result is so strained that any sense of fidelity to the idea of a written Constitution disappears entirely. One struggles to resist the notion that the justices are simply making it up as they go along.

The problem with modern judicial review is not only that particular conclusions in particular cases can be disputed on policy grounds; disagreements of that sort have been present since the beginning of the republic and are in any case inevitable. Nor is the problem merely that the Court has invaded the province of legislatures and arrogated to itself unprecedented power to resolve controversial issues of policy. The problem, rather, is that the justices have invested themselves with the authority of what

Judge John Noonan once described as "a floating constitutional convention." Alexis de Tocqueville rightly observed long ago that all major political questions in the United States tended to become judicial questions. But how does it follow that the Supreme Court must be considered the exclusive repository of constitutional wisdom? By what authority did the justices acquire the power to alter constitutional meaning without the consent of the people? Have we surrendered our rights, as Lincoln feared when speaking of *Dred Scott*, into the hands of "that eminent tribunal"?

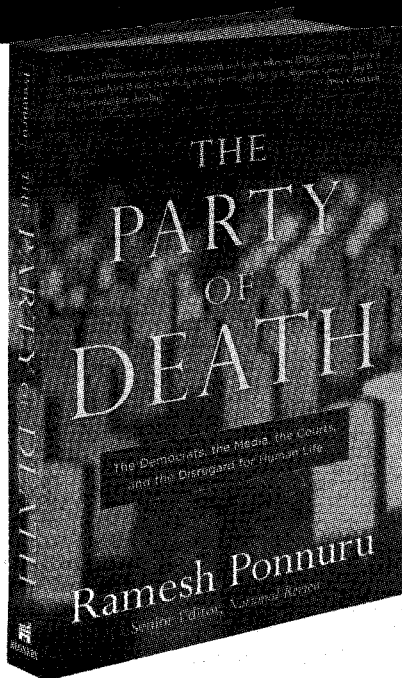
Legal Realism

THE COURT'S LONG MARCH TOWARD judicial supremacy has been much remarked in a large and sharply contested literature. Although the Court and its defenders would have you think otherwise, the path from *Marbury* to *Lawrence* is anything but a straight line. It is, among other things, filled with paradoxical twists and turns. Not the least of these is that liberals, who once criticized the federal judiciary for frustrating the will of elected legislatures, now routinely defend many modern Supreme Court decisions as the ultimate expression of our democratic way of life. The difficult task of reconciling these two positions has been a major burden for modern academic scribes, as a glance at almost any volume of any law review in recent years will readily confirm. One may be forgiven for thinking that the reversal is merely a matter of ideological convenience or hypocrisy, but as Johnathan O'Neill suggests in his splendid *Originalism in American Law and Politics*, there is more to the story than that. Modern judicial review, he correctly argues, is "rooted in the 'revolt against formalism,'" a movement inspired, in more or less equal parts, by philosophical pragmatism, legal positivism, Darwinian theory, and Progressive reformism.

These ostensibly diverse schools tended to share the belief that law was made, not discovered. Its vital essence was to be found not in logical deductions from *a priori* moral or legal principles or from architectonic constitutional texts, but rather in rational balancing of competing interests. The actions of judges and legislators were, in this sense, different in form but not in kind. Judicial patronage of substantive due process in the late 19th and early 20th centuries erred not so much because it deviated from constitutional text or precedent, but because judges imposed inappropriate standards of fairness and social utility, based on their desire to protect propertied interests.

The prophet of this new understanding was Oliver Wendell Holmes, Jr., whose aca-

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demic writing and legal opinions gave birth to a movement later known as legal realism, which in diverse forms continues to dominate law schools today. Holmes's principal mission was to sever legal thought from moral encrustations. Conceptions of objective moral principles, natural law, and natural rights were in his view mere intellectual constructs, suitable to particular eras and comforting to those who espoused them, but carrying no binding legal authority beyond the context of their creation. He was therefore not much interested in the thought of the framers, nor in the idea of a written Constitution based on the enduring truths set forth in the Declaration of Independence. To Holmes and his acolytes, such sentiments were, if not mere poppycock, wholly inapposite to the social conditions of the late 19th century, and wholly at odds with that era's intellectual suppositions.

To this thoroughgoing Darwinian, law was absolutely indispensable lest mankind descend into bestial depravity, but it was best understood as an instrument of almost infinite plasticity; it must be capable of adjusting itself to what he called "the felt necessities of the times." In the ordinary course, Holmes believed, legislative understanding of those necessities should be acknowledged by the courts as more or less definitive. He was not what would today be described as a "judicial activist," save in those instances when legislatures threatened the free interplay of ideas, especially those ideas that supported his evolutionary concept of law. In due course, Holmes's formula, adjusted and refined from time to time by his successors, established the foundation for modern judicial review: deference to legislatures on most matters of economic and social welfare, but judicial supremacy on almost everything else, especially when it came to defining the rules of the game. Although the term had not yet come into common usage during Holmes's time, the idea of a "living Constitution" may be his most enduring monument.

The Rise of Originalism

O'NEILL, ASSISTANT PROFESSOR OF HISTORY at Georgia Southern University, begins with an adroit assessment of the origins of modern legal thought, compressing a long and complicated story into a short space without sacrificing anyone or anything of importance. He deftly traces the connections between legal realism and the rise of judicial supremacy and demonstrates why the latter is a deeply problematic concept. With this foundation laid, he then proceeds to the principal burden of his book, which is to place the multifaceted idea of "originalism" in its proper his-

torical, political, and jurisprudential context, to explain its strengths and weaknesses, and to assess its continuing importance. In this, he succeeds admirably, which is no small task, considering that the subject suffers under the weight of a seemingly interminable, and interminably tendentious, academic literature. In O'Neill's hands, the topic acquires new life and, with only occasional lapses, escapes the academic jargon in which it has been so often encapsulated.

Originalism, O'Neill rightly observes, is a house of many mansions. His first order of business is to distinguish among diverse words and phrases that have been deployed in the contemporary debate on judicial power. Terms like "original intent," "interpretivism," "textualism," "original meaning," "judicial restraint," "literalism," and "strict construction" are thrown about by academics, politicians, and even citizens in confusing array. O'Neill sorts through the terminology with clarifying grace, distinguishing what is important from what is not, and finally distilling the essence of the originalist phenomenon: the effort to restrain free-wheeling judicial interpretation by restoring fidelity to the Constitution as a charter with a fixed, unchanging meaning. Originalists of varying stripes, as O'Neill demonstrates, do not always agree on the precise description of the goal or how best to achieve it, but they are united in opposition to the idea that the Court is vested with final authority to divine constitutional meaning. The modern Court tends to assume rather than argue that all law, including constitutional law, is by its nature (so to speak) an endlessly evolving phenomenon. Regardless of what the framers may have thought about the Constitution and its purposes, blind obedience to their conceptions of human nature, government, and morality makes us slaves to the dead hand of the past. Some scholars and judges even contend that the framers themselves intended no such result. As Justice Kennedy opined in his *Lawrence* decision, the framers as men of their times were limited in their ability to foresee particular contingencies. They nevertheless embraced flexible principles that empowered subsequent generations to redefine what might be particularly needful for their own times. In respect of the newly declared right to homosexuality at issue in *Lawrence*, Kennedy continued, had the framers understood what the Court understood about "the components of liberty in its manifold possibilities, they might have been more specific." An enduring Constitution, in the Court's view, is necessarily an evolving Constitution.

To this argument, originalists reply, first, that to read the framers in this manner is to impose a fundamentally dishonest, historicist interpretation of their ideas. Second, even

if one concedes for the sake of argument that the framers endorsed the idea of a living Constitution in the modernist sense, judges who embrace that concept undercut the ground of their own authority. If the Constitution has no fixed meaning, why should the power of judicial review implied by Article III and Article VI be exempt from reinterpretation? If indeed the Constitution is but a constantly evolving instrument without fixed meaning, the political branches are far better equipped than a non-elected judiciary to evaluate appropriate remedies for new contingencies.

On the whole, O'Neill gives strong support to the originalist critique of judicial supremacy and of the conception of the Constitution that is said to support it. He notes, however, that while originalism has drawn blood in its encounter with the opposition, it has yet to "establish itself as the primary legitimate jurisprudential method." Its failure derives partly from practical considerations; there are, after all, powerful forces with a vested political or intellectual interest in maintaining and expanding the status quo. But it also derives from certain defects in the originalist critique itself. Originalists are at their best in exposing the intellectual fragility of postmodernist constitutional constructs; they have been less effective at explaining on philosophical grounds the rightness of their position.

At the end of the day, words in a legal text, without more, cannot carry the philosophical weight that originalists place upon them. It is one thing to point out, as originalists do most effectively, that such-and-such a phrase had, and was meant to have, a particular, relatively fixed meaning at the time of its adoption. Persuading others that the identified meaning has, or should have, binding effect in our own day is another argument altogether. Ultimately, that argument must rest on the reaffirmation of the enduring, self-evident truths that must undergird the case for limited government, that is, on premises that are not explicitly identified in the constitutional text itself. A true originalism, in short, must look beyond the Constitution to justify the ground of its intellectual authority. Originalism and living constitutionalism rest, O'Neill suggests, "on competing conceptions of legal authority" that have been in tension for most of American history, one based on the desire for order, the other on the desire for change. Neither, he says, has been "able wholly to displace" the other in the past. As for the future, O'Neill is unsure whether the revival of a vigorous originalism in our time is a harbinger of a return toward "a more traditional conception of the American constitutional order," or whether it is merely the old order's "last gasp."

Originalism in American Law and Politics is

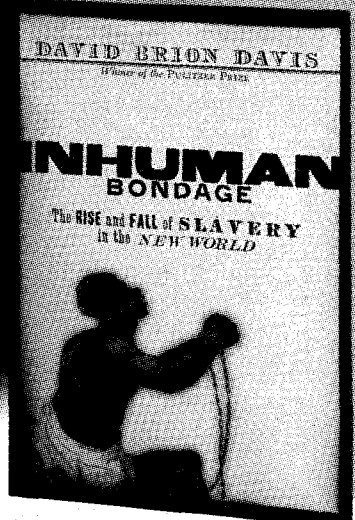
everything a work of this kind should be. It is comprehensive in its coverage, scrupulously fair to all contending parties, and engagingly argumentative. Professor O'Neill sheds new light on a subject that has been fairly beaten to death, at great length, by advocates of every imaginable ideological stripe. He accomplishes these tasks, moreover, in a reasonably short space (296 pages, including notes). The text is coherently organized and clearly written, and may justly take pride of place as the best general introduction to the subject now in print.

Justice Breyer's Jurisprudence

WOULD THAT SIMILAR PRAISE COULD be bestowed upon Justice Stephen Breyer's *Active Liberty: Interpreting Our Democratic Constitution*. Although the author does not explicitly say so, his book purports to be a response to the originalist critique, and that is how it has been treated by favorable reviewers. If indeed that is his true purpose, originalists have little to fear. The stated purpose of the work, however, is not so explicit. Justice Breyer announces what he calls a "focus" and a "theme," which have to do with the public's participation in government (hence "active liberty"); the book even has a "thesis": "that courts should take greater account of the Constitution's democratic nature when they interpret constitutional and statutory texts." His announced focus, theme, and thesis, however, never quite pull themselves together into a sustained argument. His preferred method is to dance around his subject without ever actually landing on it. Breyer's book, like his description of the judicial function, is all about the importance of nuance in constitutional interpretation.

Justice Breyer's operative premise is that the theory of democracy imposes a kind of judicial modesty, but one would be hard pressed to identify a clear argument in his book that explains why. To the contrary, the clearest inference to be drawn from his presentation is that once you understand the purpose of democracy, you will come to see why judges have a special obligation, as it were, to rise above the framers' Constitution and the expressed will of elected lawmakers.

The most dyed-in-the-wool originalist would not disagree with judicial review as a general proposition, but he would endorse it on the grounds first elaborated by John Marshall in *Marbury*, which is to say on the proposition that the text of the Constitution, understood as its framers understood it, is first in order of priority. A statute or governmental act that fails to conform to the Constitution must fail as an exercise of delegated authority, either be-



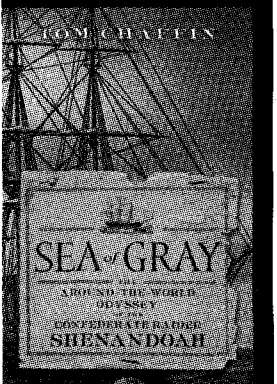
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cause the authority was not granted in the first instance or, if arguably delegated, improperly applied. Breyer's argument for judicial review, however, enters by another route, one that enables him to proceed, as it were, by changing the subject. He begins by relying on the distinction drawn by Benjamin Constant in 1819 between "ancient liberty" (the freedom to participate in government decision-making) and "modern liberty" (the freedom from arbitrary government impositions). The Constitution, Breyer argues, is more or less equally devoted to both kinds, but it is the protection of ancient liberty that will be the primary focus of Breyer's discussion.

At the outset, one wonders why a European writing 30 years after the ratification of the Constitution should be looked to as a worthy source of inspiration about the great charter's purposes. There's nothing inherently wrong with employing the services of foreign commentators, to be sure, but why Constant when there are so many other authoritative sources closer to home? These include, but are not limited to, James Madison, who had rather a lot to say about the purposes and structure of the Constitution and about the difference between direct democracy and a republic. The spirit of Madison, not to mention the other framers, is strangely absent from Breyer's text. The principal father of the Constitution is discussed only passing. Alexander Hamilton, the great expositor of judicial review in *The Federalist*, is not discussed at all. Thomas Jefferson is mentioned twice, but only to support the most general and obvious proposition that all power in this regime derives from the people. James Wilson is cited once with a brief quotation endorsing the idea of a popularly elected president. Beyond these passing references, all of which have the character of window-dressing and add nothing of importance to Breyer's argument, no framer makes even a cameo appearance on stage. Abraham Lincoln is wholly absent, as are his elegant, compelling arguments about the moral foundations and limits of popular government, and, as well, the limits of judicial power. These telling omissions reveal more about Justice Breyer's attitude toward the Constitution than what he actually says about the subject.

Breyer talks frequently about democracy, and while he notes the threat posed by despotic majorities, he never addresses the subject except by indirection. In a work devoted to shoring up public participation in government decisions, this, too, is a curious omission. Justice Breyer invokes democracy at such a high level of abstraction that one would never know that constituting democracy is, well, a problem. The principal risk is that one part of the people will

use the power of government to interfere with the rights of others. The central task of the framers was to reduce that risk to manageable proportions while at the same time ensuring that government could govern effectively and that popular consent was the sole source of governmental authority. No mean trick, that, which is why the framers' extended reflections on the subject deserve special attention, especially by those whose job it is to interpret the Constitution. But rather than invoking the framers, Breyer begins by invoking Constant.

It is, as I say, an odd choice. For one thing, Constant was hardly the first to distinguish between ancient and modern liberty. The American Founders were thoroughly familiar with the virtues and vices of ancient republics, but they had also immersed themselves in the improved science of politics, utilizing principles that, as Alexander Hamilton said, were "not known at all, or imperfectly known to the ancients." These included the separation of powers, legislative checks and balances, an independent judiciary, representation, and (by applying the principle of representation in a manner never before seen) an extended, uniquely federated republic. Taken together, these new devices were "means, and powerful means," Hamilton remarked, "by which the excellencies of republican government may be retained and its imperfections lessened or avoided"—a tidier and more democratic solution, by far, to the problem of majority tyranny than any dreamed of by Constant.

Constant was a defender of the extended commercial republic, and of the principle of representation that made it possible; but those ideas first came to fruition on American shores through the husbandry of the Founding Fathers, and the government they erected was a going concern for 30 years before Constant wrote about modern liberty. What Constant's thought contributes to our understanding of the American regime, either in its origins or its present operations, is hard to see. It is therefore hard to understand why Breyer chooses to invoke him, unless, like his passing references to American statesmen, the invocation is so much window-dressing. An alternative explanation does insinuate itself, however. Constant, like the framers, was much aware of the threat posed by tyranny of the majority in modern representative government. Unlike the framers, his preferred solution to the problem was a complicated form of constitutional monarchy, in which the monarch (who was separate from the executive) would exercise a moderating influence on democratic excess, by (among other things) insuring that all important interests were properly represented. Is Breyer's invocation of Constant meant to imply that the fram-

ers' Constitution suffers from certain inadequacies and that, by substituting the judiciary for the monarchy, those inadequacies might be remedied in the name of perfecting democracy? Justice Breyer does not make that argument explicitly, but given *Active Liberty's* subsequent defense of judicial power, the thought crosses the mind.

The rest of Breyer's book doesn't get much better. Its main thrust is that construing the Constitution is a complicated business, far more complicated than can be comprehended by reliance on its text alone. In addition to "text, history, and precedent, consequences also guide [a judge's] decision-making." And proper attention to consequences, especially "constitutionally relevant consequences," he adds, will limit judicial subjectivity, though precisely how he never quite says. He illustrates the difference between his approach and that of textualists in brief discussions of selected issues dealing with free speech, federalism, privacy, affirmative action, statutory interpretation, religion, and administrative law. Along the way, his brief for judicial modesty, though frequently invoked, is never developed. To the contrary, by the end of the volume, what we have is a brief for more or less unlimited judicial discretion, which he justifies on the ground that it enhances democracy. The "constitutionally relevant consequences" he alludes to as a brake on judicial subjectivity turn out to be no brake at all.

Active Liberty

THAT POINT COMES THROUGH LOUD and clear in Breyer's application of his theory to three Establishment Clause cases—the 2000 decision upholding school vouchers, to which Breyer dissented (*Zelman v. Simmons-Harris*), and last year's two Ten Commandments decisions, one from Texas (*Van Orden v. Perry*), the other from Kentucky (*McCreary County v. ACLU*). Breyer argues that his decisions in all three cases were driven by a consistent and deep commitment to the framers' overarching purpose in crafting the Establishment Clause. That purpose, he avers, was to avoid social conflict. That's certainly one way of characterizing the framers' intent, but it hardly exhausts the subject. For one thing, Breyer takes for granted modern suppositions about the First Amendment that first entered constitutional law via the Supreme Court's decision in *Everson v. Board of Education* (1947).

Everson did three things at once, all unprecedented, and all based on dubious, if not entirely false, historical foundations. (1) It applied the Establishment Clause against the states for the first time. The general merits

of the incorporation doctrine aside, the First Amendment is that part of the Bill of Rights least amenable to being incorporated. It is the only amendment that specifically addresses the national government: "Congress shall make no law...." (Emphasis supplied.) How one warps that text to include the states is a feat of legal prestidigitation almost without peer, but that is nevertheless what the Court did in 1947. (2) It read into the Establishment Clause Thomas Jefferson's metaphor concerning the "wall of separation between church and state," and by so doing fundamentally altered (and greatly expanded) the original meaning of what constituted a forbidden establishment. (3) It made the Supreme Court the final arbiter of all matters touching the relationship of government and religion.

What the Court has done to the religion clauses could serve as the model for everything that's wrong with modern judicial review: the Court began by ignoring original meaning altogether; having emptied the amendment of its original meaning, it filled the void with currently fashionable theories about the proper relation between government and religion; it then attributed these theories, in varying ways, to the intention of the framers, whose authority was thereafter cited as justification for what the modern Court wanted to do; and it invested itself with the exclusive authority to define and modify the rules forever after. The Court's opinions now govern in lieu of the constitutional text. To compound the problem, those opinions have given birth to a variety of Court-made tests that the justices themselves have trouble sorting out. Seasoned First Amendment litigators approach every new case with trepidation, not knowing which rule may apply, or not.

When Justice Breyer talks about the framers' desire to avoid religious conflict, he is really talking about the modern Court's (or his own) revisions of what the framers originally meant. The framers are cited, and their authority invoked, but their actual ideas are no longer seriously studied or discussed. What is discussed, endlessly, is the Court's most recent opinions, and it is from these that Breyer extracts the reductionist notion that the avoidance of social conflict is the primary purpose of the Establishment Clause. Consider this telling paragraph from *Active Liberty*:

The twentieth-century Supreme Court had held in applicable precedent that, given the changing nature of our society, in order to implement the basic value that the Framers wrote the [Establishment] clause to protect, it was necessary to interpret the clause more broadly than the Framers might have thought likely.

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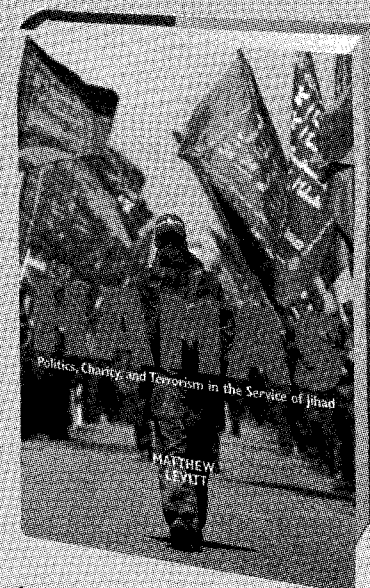
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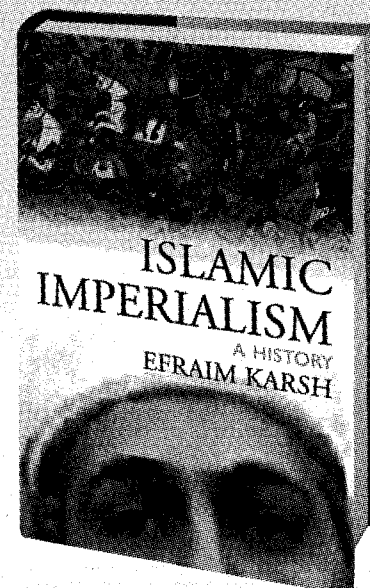
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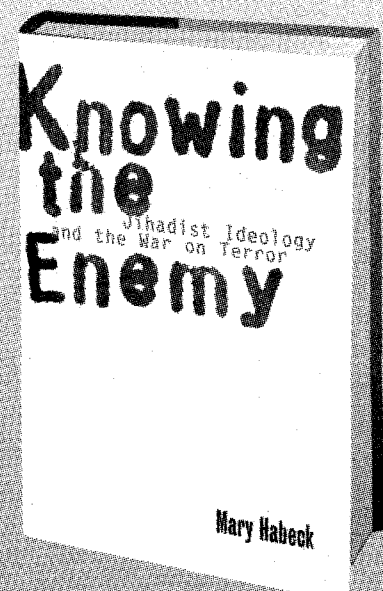
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Breyer states that he opposed school vouchers because of the "potential for civil strife." What potential he has in mind is not immediately apparent, for not a shred of evidence can be found in either Milwaukee or Cleveland, the two cities with extensive voucher programs, of anything resembling "civil strife." The programs are working—spectacularly in Milwaukee—and are widely accepted by both communities, and enthusiastically supported by racial and ethnic minorities whom the programs were designed to help. So much for dreaded civil conflict.

In passing, it should be noted that the Court has tolerated all sorts of social conflict in its efforts to secure other constitutional rights. Consider the social disruption occasioned by *Brown v. Board of Education*, for example. Or consider the free speech, free press, and right of petition language of the First Amendment. The Court has often offset the risk of conflict by what it deems to be the amendment's clear preference for freedom, and it has developed an elaborate series of tests to weigh the balance. If the avoidance of social conflict is Justice Breyer's ultimate desideratum under the Establishment Clause, he could tear a page from the Court's other First Amendment rulings.

But Breyer not only avoids any actual assessment of the risk of strife; he also averts his gaze from the goals sought to be accomplished by school vouchers. This is an odd position for one who wishes to weigh the consequences of constitutional rulings. If he had had his way in the voucher case, the avoidance-of-social-strife principle would have been applied as a *per se* rule. So much for consequences. Had Justice Breyer bothered to look beyond his formal rule, however, he might have discovered that voucher programs permit the least privileged in society to escape the ignorant oppression of inner-city schools. Breyer, who is genuinely and nobly moved by the plight of ethnic and racial minorities in many other areas of law, and who notes that plight as one of the reasons for judicially-mandated legal change, is curiously deaf in the voucher litigation to the *cri du coeur* that arises from so many inner-city parents about the dismal quality of schools their children are forced to attend. The record in *Zelman* was chock-full of evidence about both parental motivation and Cleveland's abysmal schools, but Breyer paid little attention.

Finally, Breyer also fails to note that the ostensible constitutional offense, government

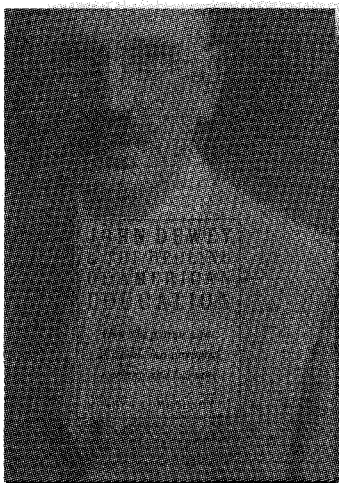
aid to religious schools, could occur only after the intervening agency of private parties. The Cleveland program was thoroughly secular in purpose (improving the lot of poor kids) and strictly neutral in its operation (public schools as well as private secular and religious schools were all equally eligible). The only way government money could reach religious schools was through parental choice. In other words, the government did not choose to aid a religious institution; the parents did. Where, then, was the injury to the First Amendment? Just how far would the justice extend his theory of potential religious conflict? Surely, indirect government aid to religion is far more massive in the case of tax deductions for contributions to religious institutions, and for that reason potentially more offensive to a larger segment of the public. Would Breyer apply his *per se* rule about avoiding religious conflict to tax deductions?

Breyer split his vote on the two Ten Commandment cases. Applying his social conflict theory of the First Amendment, he voided the Kentucky courthouse display on the ground that its sponsors had a religious motivation. Although he does not note the fact, the Kentucky display was changed a number of times to include secular trappings after the ACLU had filed its complaint. In doing so, the sponsors were responding rationally to prior Supreme Court rulings indicating that the presence of secular symbols can mitigate the purpose and effect of a challenged religious display. Writing for the majority, including Breyer, Justice David Souter noted that the addition of secular symbols in this case only underscored that the original purpose was religious.

Justice Breyer went over to the other side in the Texas case. His reasoning here was that the prospect of religious conflict was minimal. The sponsoring organization was a civic, not religious entity; the monument was surrounded by other, secular historical markers; and, most importantly for Breyer, "the monument had stood for forty years without legal challenge." He inferred from all this that the religious message was largely incidental, and that it was "unlikely to prove socially divisive."

Note that in the Ten Commandments litigation, Justice Breyer assessed the likelihood of social conflict, a courtesy he did not extend in the school vouchers case. There he applied what was in effect a *per se* rule: the "basic value" of the Establishment Clause was to prevent religious turmoil. Since vouchers might (without any assessment of likelihood) produce such turmoil, they fail the constitutional test. In Texas, he assessed the prospect as small because no one had complained, at least not loudly, for four decades. But as Justice Souter pointed out in his dissent in the Texas case, why should

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the rights of those who file suit now be undone because some anonymous others failed to file suit 40 years ago? For all Breyer knew, the new lawsuit could be the beginning of his dreaded religious conflict.

Much to be Modest About

TURNING TO MORE GENERAL MATTERS, in his effort to claim that his interpretive approach yields judicial modesty, Justice Breyer cites as models for emulation Holmes, Louis Brandeis, Harlan Fiske Stone, Felix Frankfurter, and Learned Hand. All shared to a greater or lesser extent the premises of legal realism, which Breyer does not discuss. He cites them, one suspects, because each tended to support the courts' deference to legislatures at least on economic regulatory matters. But there were other prominent features in their jurisprudence that, one also suspects, Breyer might not wish to be seen as supporting.

For example, does Breyer mean the Holmes who had nothing but contempt for what he called "the thick-fingered fools" who endeavored to improve their lot by supporting expanded government? The Holmes who, in upholding compulsory sterilization laws in *Buck v. Bell* (1927), wrote that "three generations of imbeciles are enough"?

Does he mean the Stone who gutted the 10th Amendment as so much meaningless surplusage? The Stone who paved the way for judicial supremacy in his 1938 *Caroline Products* opinion?

Does he share Louis Brandeis's almost child-like faith in the value of "experts" as a corrective to democracy?

Does he approve of the Frankfurter who believed that the Court had no constitutional or

historical justification for its rulings in the reapportionment cases, and who warned against judicial intrusion into the "political thicket"?

Does he mean to invoke the Learned Hand who during his last days on the bench warned against judicial activism in general and inveighed against *Brown v. Board* in particular?

It is perhaps unfair to ask such questions of Breyer. His references to these judges like those to the framers, and even Constant, are probably nothing more than symbolic. These are all great figures in modern law, but Breyer never really tells us, beyond a passing reference to the judicial modesty that they somehow exemplified, what it is particularly that he admires about them. To ask particular questions about them, however, reveals the soft underbelly of Breyer's approach. The careers of these men coincided with the rise of judicial supremacy. With the exception of Learned Hand, all contributed to that rise in some significant sense. Frankfurter, as his *Baker v. Carr* dissent indicates, in his final days seemed puzzled by the Court's new aggressiveness; but it was he, perhaps more than any other figure besides Earl Warren, who micromanaged the decision in *Brown*. Holmes was the spiritual godfather of the realist movement that in turn provided the rationale for judicial activism. Brandeis, an enthusiastic supporter of the expanding welfare state, did his part to remove constitutional obstacles to its effectuation.

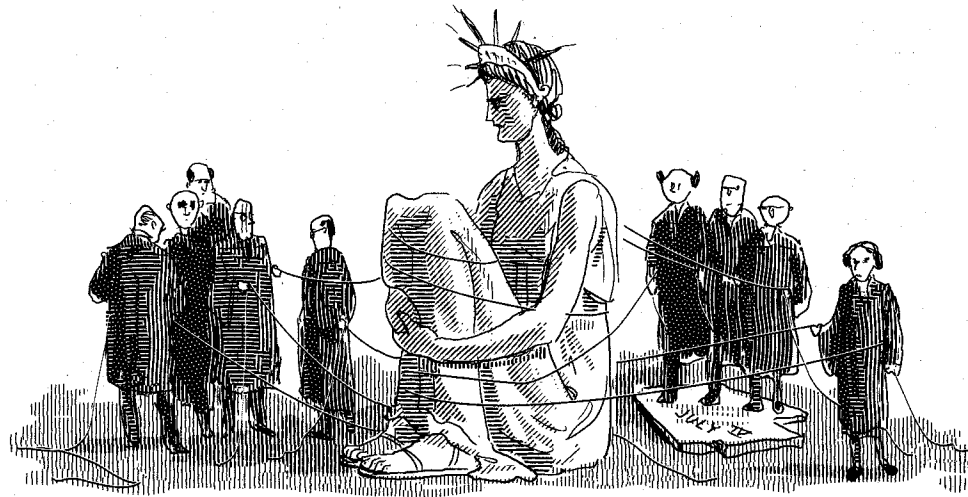
But it is Stone whom Breyer most resembles. In his famous Footnote 4 in *Caroline Products*, Stone wrote the script for what might be called the Avuncular Theory of judicial review, which has dominated the Supreme Court ever since. Footnote 4 noted that henceforth the Court would generally defer to the legislature on laws governing economic activity. When

civil or political rights are in issue, however, the Court would impose "a more searching judicial inquiry." Among the rights that would be specially protected, Stone said, were those specified in the Constitution, particularly the Bill of Rights; rights integral to the political process, such as voting and political activity; and rights associated with what he called "discrete and insular minorities." The formula, set forth in a few short paragraphs in a footnote in an otherwise insignificant case, became the foundation on which the Court rested virtually all of its subsequent enterprises. Breyer does not reference Footnote 4, but he might have, for there is nothing of importance in *Active Liberty* that does not flow from its premises. For all his invocations of the need for judicial modesty, Justice Breyer provides no constitutional reason for it; to the contrary, he gives us reason to believe that (other than on economic matters) active liberty means, above all, an active judiciary.

Finally, it is notable that Breyer nowhere references the most egregious decisions of modern times, and perhaps of any time, the abortion cases. It is these, more than any others, that have brought the originalist critique to prominence and caused many people to rethink the role of the judiciary in a democratic society. Breyer wishes us to believe that his brand of activism embraces democratic values as much as his originalist critics, and that, properly applied, it, too, leads to judicial modesty. But the man who wrote the opinion for the Court in *Stenberg v. Carhart* (2000), striking down state prohibitions on partial-birth abortions, can lay no claim to modesty.

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CONSTITUTIONAL RESISTANCE



CONSERVATIVES ARE QUIETLY OPTIMISTIC and perhaps even secretly gleeful at the recent confirmation of two Republican appointees to the United States Supreme Court. To be sure, anyone who can count knows that the Court's disposition on cultural questions is unlikely to change. The majority remains in place that declared sodomy a constitutional right in *Lawrence v. Texas* (2003), and on federalism issues it hardly seems possible that the states could find better friends than the two they lost. Besides, as Nelson Lund and Craig Lerner of the George Mason University School of Law have pointed out, President George W. Bush didn't exactly fulfill his pledge to appoint judges in the mold of Antonin Scalia and Clarence Thomas, proponents of textualism and original intent. In John Roberts and Samuel Alito, the president chose men who've stressed judicial craftsmanship and adherence to precedent. Of course good craftsmanship and sound jurisprudence are hardly incompatible; nonetheless, the first notable mark of the Roberts Court was not its reversal of some liberal precedent but its prompt unanimity in cases thought to be controversial.

Despite the new justices' virtues, then, one might still doubt that the crisis of judicial supremacy has passed. To begin with, it is possible that the Court's modern role results from deep and maybe even irreversible changes in the polity itself, not from accidents of judicial personality. After all, the Court's most egregious recent assertion of its own supremacy in interpreting the

Constitution (about which more shortly) was signed by Justices Sandra Day O'Connor and Anthony Kennedy—both appointed by Ronald Reagan. Even stalwart conservatives such as the late Chief Justice Rehnquist and Justices Scalia and Thomas joined the majority that struck down a congressional attempt to substitute the legislature's good-faith understanding of the 14th Amendment for the Court's in *City of Bourne v. Flores* (1997). And it was a conservative majority in *Bush v. Gore* (2000) that apparently thought the nation needed judicial action to settle a disputed election, rather than relying, as in the previous century, on Congress to count the votes.

Moreover, public opinion widely accepts the notion that the Supreme Court has the final word in interpreting the Constitution—the loudest dissenters, nowadays, coming from the law-professor Left, which distrusts the bench's Right. Conservatives still find plenty of Court decisions upsetting, but they often regret that there is nothing that can be done except to wait for a responsible majority. Interpretive anarchy, they suppose, is the only alternative to judicial supremacy, and the prospect of anarchy makes judicial despotism seem prudent even though distasteful. Finally, there is of course no guarantee that conservatives placed on the Court will fulfill, over long years of service, the promise of their appointment. The annals of presidential retirement are littered with regrets about judges who turned out differently than their nominators had expected.

Nevertheless, I want to suggest that there remains latent in American constitutionalism a serious alternative to judicial supremacy. By "judicial supremacy" I mean the doctrine that the Supreme Court has the final say about the meaning of the Constitution, at least in the absence of a new constitutional amendment. Never was this point of view expressed more boldly than by the justices themselves in *Planned Parenthood v. Casey* (1992), in which the Court reaffirmed the abortion right created in *Roe v. Wade* (1973). In *Casey*, supremacy was derived from the very legitimacy and historic role of the Court itself:

Like the character of an individual, the legitimacy of the Court must be earned over time. So, indeed, must be the character of a Nation of people who aspire to live according to the rule of law. Their belief in themselves as such a people is not readily separable from their understanding of the Court invested with the authority to decide their constitutional cases and speak before all others for their constitutional ideals. If the Court's legitimacy should be undermined, then, so would the country be in its very ability to see itself through its constitutional ideals. The Court's concern with legitimacy is not for the sake of the Court, but for the sake of the Nation to which it is responsible.

We the People

TO THIS DOCTRINE OF JUDICIAL SUPREMACY, I offer in reply the spirit of *constitutional resistance*. By this I mean, as Richard Morgan and I have elsewhere explained, the peaceable and provisional withholding of voluntary compliance with outrageous court decisions by aggrieved parties and especially by those similarly situated, in an effort to test the Court's action in the wider political arena. In Abraham Lincoln's words, constitutional resistance is the view that the Court's pronouncements need not be made a "rule of political action" by citizens at large or by political office-holders, at least until the interpretation in question becomes a settled part of the Constitution in the public mind. The principle underlying constitutional resistance is that the people, who ordained and established the Constitution, have final authority over its meaning. Of course that is implicit in the Constitution; the question is how, in practice, the people's authority is made to stick, and how the people's interpretation is formed.

Although judicial supremacy is now the textbook standard, political scientists in recent years have increasingly pointed to what they call "constitutional politics," recognizing that judicial supremacy does not describe the original norm, the historical norm, or even contemporary habit. Instead, they note that much constitutional interpretation or "construction" takes place outside the courts. Louis Fisher, for example, refers to "constitutional dialogues" among the branches, a useful notion, though vitiated by his concession of the realists' claim that judges legislate. Granted, if they do, it is better that they share the task, but better still if judging and legislating can be made distinct. Scholars such as Keith Whittington and George Thomas have sought to recover this distinction, describing what Thomas calls a "Madisonian Constitution" in which the complexities of constitutional structure influence the course of constitutional development, with wide participation in the process across the branches and a full range of political considerations at play. Whittington usefully draws attention to "constitutional construction," which he distinguishes from judicial interpretation. In such moments of construction—he cites the Senate's determination of impeachable offenses in the trials of Justice Samuel Chase and President Andrew Johnson, as well as the solution to the nullification crisis in 1832—political creativity exerts itself within the parameters of the Constitution, as issues of constitutional dimension are settled without the formal, written document having to be changed.

To speak of constitutional *resistance* rather than constitutional *politics* is not to reject these latter approaches. But it is to admit that there is something special about the role of the courts in establishing constitutional law and thus in settling the Constitution's meaning: resistance of any sort defines itself against authority. I concede, in other words, that judicial supremacy, first asserted in the 1790s, is a recurrent risk in the American constitutional regime. Like many risks, this one is concomitant to something valuable, namely, the judge's admirable image as an impartial arbiter under the law. Activist judging violates this standard, but the solution is *not* for judges to think of themselves as soldiers taking commands or as bureaucrats following a rulebook. The federal judicial oath includes obedience to the Constitution, but it also speaks of doing justice (even echoing the biblical passage on which England's common-law judges once swore): to "administer justice without respect to persons, and do equal right to the poor and to the rich, and...faithfully and impartially discharge and perform all the duties incumbent upon [the judge]...under the Constitution and laws of the United States."

When judges forget that judgment is their specific virtue and knowing and following law is their specific task, the constitutional solution is to find a way to bring them back to it. This can be done, not by treating them as treacherous soldiers or errant bureaucrats who need a sanction, but by extending legal disputation to the other branches and indeed to the polity at large. When judges overreach, in other words, there are constitutional means by which politicians and citizens may resist. Besides executive energy and legislative compromise—besides political pragmatism—constitutional government needs a capacity for judgment, bringing to bear the wisdom inherent in first principles and settled traditions on the resolution of a particular issue or dispute. When judges fail to supply this wisdom, others must step into the breach.

Lincoln and Dred Scott

LUCIDLY AND FORCEFULLY ABRAHAM Lincoln made the classic case for resisting judicial supremacy in his First Inaugural Address. He had formulated the argument in his 1857 address on the *Dred Scott* decision and a year later had pressed it in several interesting exchanges with Stephen Douglas in their celebrated debates. Its reiteration at the moment he assumed the presidency in the middle of a crisis caused by state ordinances of secession, gives it special focus and force. His words are worth quoting at length:

I do not forget the position assumed by some, that constitutional questions are to be decided by the Supreme Court; nor do I deny that such decisions must be binding in any case, upon the parties to a suit, as to the object of that suit, while they are also entitled to very high respect and consideration in all parallel cases by all other departments of the government. And while it is obviously possible that such decision may be erroneous in any given case, still the evil effect following it, being limited to that particular case, with the chance that it may be over-ruled, and never become a precedent for other cases, can better be borne than could the evils of a different practice. At the same time, the candid citizen must confess that if the policy of the government upon vital questions, affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties, in personal actions, the people will have ceased to be their own rulers, having, to that extent practically resigned their government into the hands of that eminent tribunal. Nor is there in this view any assault upon the court or the judges. It is a duty from which they may not shrink, to decide cases properly brought before them; and it is no fault of theirs if others seek to turn their decisions to political purposes.

The gentleness of these last phrases might be explained by the presence of the justices of the Supreme Court on the platform with the newly inaugurated president, but the sentences that precede it are crafted with lawyerly precision. He does not claim that the rise of judicial supremacy means the end of democracy pure and simple, but that "to th[e] extent" that the Court insists on having sole authority over the Constitution, self-government is diminished. He does not deny that Court decisions can become a settled part of our constitutional order—only that they earn that status instantly, without regard to their reception by the polity at large. Far from encouraging the habit of angry resistance to judicial errors, Lincoln counsels "respect and consideration" of Court decisions by other "departments" of government, even as he reminds these branches that they are not, like the actual parties to a particular case, bound by the judicial decision of that case.

Indeed, the context of Lincoln's discussion makes clear that he thinks resisting an assertion of judicial supremacy is a moderate alternative compared to secession, the constitutional merits of which he had just finished discussing.

Whatever position one takes on the theory of the Union Lincoln expounds to refute secession, the nerve of his argument is a sophisticated account of constitutional disagreement that acknowledges the legitimacy of differing interpretations but insists on the peaceful settlement of disputes, which settlement turns on an appeal to the public mind. In the background, of course, is the Supreme Court's *Dred Scott* decision, which the Republican Party could not accept without abandoning its platform's principal plank, the call for restoring the congressional ban on slavery in the territories. Lincoln had both to argue against a constitutional claim of utter resistance to the federal government as a whole—secession—and in favor of moderate resistance to the judicial supremacy evident in the *Dred Scott* decision. These two claims are obviously related: the strongest case for secession depended on showing that lawless parti-

sans had seized control of the federal government and were preparing to do serious mischief to the constitutional order.

In the passage just quoted Lincoln draws his distinctions carefully and successfully. However much the Constitution would be strained in the decade that followed, especially after his assassination, its integrity after the addition of the Civil War Amendments did not undermine but rather reaffirmed his case against judicial supremacy in constitutional interpretation.

Lincoln meant his First Inaugural to embody the results of more than half a century of the American people's constitutional experience. From the beginning, Americans had developed a series of answers to the question, what should be done if political authorities violate the Constitution? The answers developed in the first decade or so form, so to speak, the original understanding of constitutional resistance.

Amending the Constitution

AMERICAN CONSTITUTIONAL LAW IS typically traced to the Supreme Court's decision in *Marbury v. Madison* (1803), but the truer—though less auspicious—beginning lies a decade earlier in *Chisholm v. Georgia* (1793). In this case, the Supreme Court held that the provision of Article III of the Constitution giving the federal courts jurisdiction over "Controversies...between a State and Citizens of another State" authorized a South Carolina citizen's executor to sue the state of Georgia for payment of a debt, a suit forbidden to a citizen of Georgia against the state of Georgia (or a citizen of South Carolina against the state of South Carolina, or a citizen of the United States against the United States) by the common-law doctrine of sovereign immunity. The state of Georgia took the position that, as it was immune to a suit initiated by any citizen, it was not even obliged to answer in the Supreme Court; but given a postponement, the state consented to send attorneys to explain its refusal.

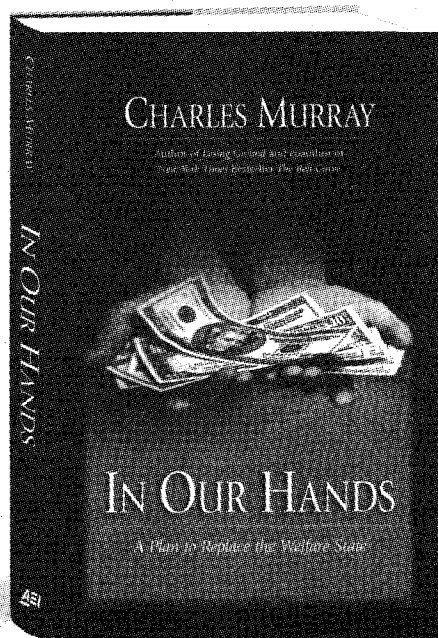
The Supreme Court upheld its jurisdiction of the suit, over the sole dissent of Justice James Iredell, who emphasized both the lack of a jurisdictional statute and the existence of clear common-law principles justifying sovereign immunity in the absence of state waiver. The *seriatim* opinions of Chief Justice John Jay and Justice James Wilson were strongly nationalistic in tone and argument, insisting that the plain words of the Constitution overrode any contrary legal principles and that the nature of the Union established by the Constitution was such as to deny sovereignty to the states in any serious sense of the term. The question whether federal jurisdiction extended to suits for the recovery of state debts, wrote Wilson, "may, perhaps, be ultimately resolved into one no less radical than this—'Do the people of the United States form a Nation?'" Jay, too, thought something fundamental was at stake: "The [sovereign immunity] exception contended for would contradict and do violence to the great and leading principles of a free and equal national government, one of the great objects of which is to insure justice to all."

The country responded unequivocally to the Court's ringing invocation of nationalist first principles. With Virginia and Massachusetts in the lead, the legislatures of almost every state passed resolutions calling for a constitutional amendment. Obliging, the Federalist Congress passed, and all but three of the state legislatures ratified, the 11th Amendment:

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The Sedition Act

THE NEXT CRISIS OVER CONSTITUTIONAL supremacy took place against the background of the French Revolution, and served to lay the foundation for permanent political parties in the United States. At issue was the constitutionality of the Alien and Sedition Acts, passed by Congress and signed by President John Adams, providing for the deportation of aliens that the president "shall judge dangerous to the peace and safety of the United States," and for the punishment of "any person [who] shall write, print, utter, or publish...any false, scandalous, and malicious writing or writings against the government of the United States...Congress...or the President of the United States, with intent to defame...or to bring them...into contempt or disrepute; or to excite against them...the hatred of the good people of the United States...." Passed by Federalists in Congress, the acts were deplored by opposition Republicans, led by Thomas Jefferson and James Madison, who found a voice in the legislatures of Kentucky and Virginia, which passed resolutions the two leaders respectively had drafted condemning the acts as unconstitutional.

The arguments for considering the acts unconstitutional are interesting in themselves, but with regard to judicial supremacy, what matters is the doctrine of what to do about unconstitutional legislative acts. Both Jefferson and Madison, and hence both Kentucky and Virginia, insisted that the states, as parties to the constitutional compact, had a right to vindicate the instrument that they had created, the Constitution, against its creature, the federal government. Jefferson for Kentucky wrote of a right in the states to nullify such a law, though he did not ask that Kentucky now exercise that right, preferring what he called in his draft "a committee of conference and correspondence" to communicate with other state legislatures, a process recalling the colonial response to the Intolerable Acts in 1774. Madison, more cautious, had Virginia assert on the other states' behalf only a right "to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities,

rights, and liberties appertaining to them." There, too, the call was for communication with the other states.

For our purposes, his comments on "interposition" are most significant. In a follow-up report for the Virginia legislature, Madison explained that, by their terms, the Virginia Resolutions limit the occasions for interposition. The constitutional violation must involve a "deliberate, palpable, and dangerous exercise" of powers not granted by the Constitution. Moreover, he denied that interposition would occur "either in a hasty manner or on doubtful and inferior occasions." Though the argument depends on seeing the Constitution as a compact among the states, he distinguishes between "ordinary conventions between different nations" and "an intimate and constitutional union," saying that within the latter, "interposition of the parties, in their sovereign capacity,

can be called for by occasions only deeply and essentially affecting the vital principles of their political system." As for the acts of interposition themselves, Madison did not specify what form they would take. The word "interpose" means to place in between, and therefore to obstruct, delay, interfere, intervene, or interrupt. He did not deny, but neither did he assert, that interposition could entail nullification of an act of Congress, or even of the compact itself. Instead, he noted that the resolution in question speaks of the object of an act of interposition in a carefully restrained way. The purpose was "solely that of arresting the progress of the evil of usurpation, and of maintaining the authorities, rights, and liberties, appertaining to the states as parties to the Constitution." Jefferson spoke of nullification as a *natural right* of parties to a compact; Madison spoke more guardedly of a sort of constitutional right or duty to resist.

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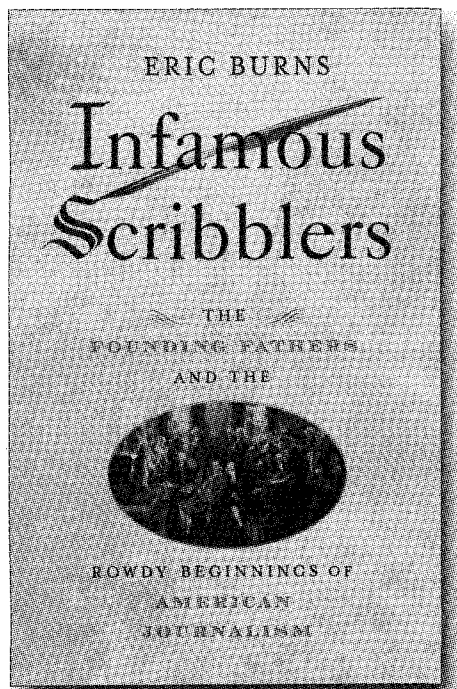
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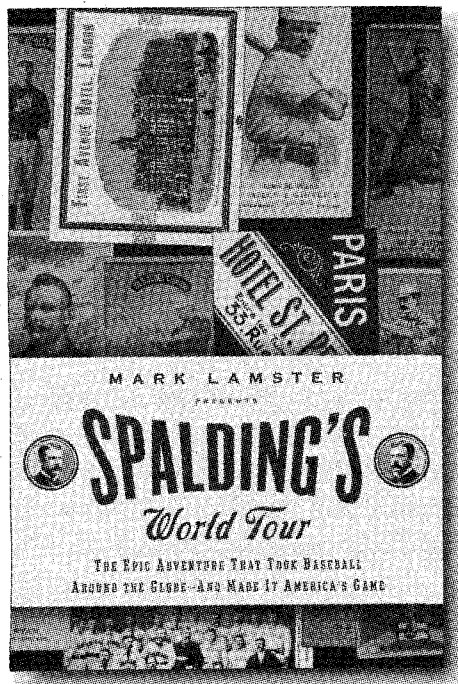
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One of the most remarkable paragraphs of Madison's remarkable discussion is the objection he raised and answered: "that the judicial authority is to be regarded as the sole expositor of the Constitution in the last resort." Here, before judicial review is even exercised on the federal level, was the idea of judicial supremacy that would become familiar to Americans later on. Madison refuted it on three grounds. First, not all usurpations would be subject to judicial process; there are wrongs that will not give rise to a legal controversy or case. Second, the judiciary being only one department of the federal government, its supremacy over its cases and controversies would imply the supremacy of the federal legislative and executive powers in those matters that do not find their way to court; judicial supremacy is thus federal supremacy by another name. Finally, the doctrine of interposition is reserved for precisely those usurpations that cannot otherwise be met by ordinary constitutional means; for example, if the judicial branch itself might be the usurper. In short, even if the Court might be final in relation to the other branches of the federal government, it is not final "in relation to the rights of the parties to the constitutional compact, from which the judicial, as well as the other departments, hold their delegated trusts." Madison did not deny the power that came to be called judicial review, but he did deny that it is supreme over the Constitution.

For all his caution, however, Madison concluded his discussion of interposition with a justification of "a frequent recurrence to fundamental principles" as "a necessary safeguard against the danger of degeneracy, to which republics are liable." Compare the present cause to the Revolution, he insisted to the reader, and see "whether the declaratory recurrence here made to those principles ought to be viewed as unseasonable and improper, or as a vigilant discharge of an important duty." The spirit of interposition, then, is the spirit of republican self-government, which is not reserved for moments of extraordinary creativity but is intended to animate constitutional life. That the movement Madison here defends succeeded not through the states' interposition, but rather by electoral victory in what Jefferson liked to call "the Revolution of 1800," thus seems altogether appropriate, though perhaps paradoxical. Elections take place within the framework of the Constitution, but constitutional interpretation is often at stake in them. "The authority of constitutions over governments," wrote Madison, "and of the sovereignty of the people over constitutions, are truths which are at all times necessary to be kept in mind." That a people can be constitutional as well as sovereign, or sovereign only because constitutional, is a truth also worthy of reflection.

Jefferson, Marbury, and Judicial Review

CHISHOLM V. GEORGIA AND THE 1800 election are, then, the real beginnings of American constitutional law, and their lessons point more to constitutional resistance than to judicial supremacy. In this context, *Marbury v. Madison*, the case that established federal judicial review of legislation, appears less as an assertion of judicial preeminence and more as John Marshall's carefully wrought effort to preserve a place for the judiciary in constitutional interpretation. The case did not come to the Court as an attempt to test a law's constitutionality; it did not pit the judicial branch against Congress, though there was precisely such a case coming along more or less contemporaneously, *Stuart v. Laird* (1803), testing the constitutionality of the repeal of the Judiciary Act of 1801 (the repeal was upheld in a cursory opinion). *Marbury* was from the start a case of constitutional dimension, but this was because it seemed to pit the Court against the president. What *Marbury* sought was a court order, a *mandamus*, commanding President Jefferson's secretary of state, none other than James Madison, to deliver a commission sealed by the Adams Administration. From the beginning, Jefferson made clear his intention to ignore any order that the Court might issue. He instructed Madison not to acknowledge the Court's jurisdiction—rather like the state of Georgia in *Chisholm*, Madison only came to Court via the attorney general, who did not answer the claim but briefly testified as a witness. Jefferson's theory of "departmentalism" justified his instructions. Each branch, according to Jefferson, is exclusively responsible for the constitutional duties placed upon its members, and each is authorized to interpret the Constitution according to its conscience in matters that concern itself. We have already seen a preview of this constitutional theory in Madison's Report on the Virginia Resolutions, where it was used to explain the judiciary's limited role in constitutional interpretation. Now it stood ready to defy the Supreme Court, indeed, almost to put it to a dare.

The genius of Marshall's solution in *Marbury* is that it avoided such an outcome while clearly asserting the Court's important role in the determination of constitutional disputes. In the first place, by refusing to issue the *mandamus*, Marshall denied Jefferson the opportunity to defy the Court. Second, by speaking at length to the question of *Marbury's* right to the commission, the Chief Justice seemed partially to reject Jefferson's constitutional theory: there are indeed political duties of the executive that cannot be reviewed by a court of law, but an official's ministerial acts as prescribed by statute are not among them. Third, Marshall's

assertion of judicial power in *Marbury* was circumscribed by a certain acknowledgment of Jefferson's theory, for *Marbury* can be construed in terms consistent with departmentalism. The legislative act in question was the *Judiciary Act*, and the Court's ruling concerned the provision in Article III about its own jurisdiction. Whatever one thinks of Marshall's legislative and constitutional interpretation, even Jefferson could not reject the Court's right and power to determine such vital matters without making the case, not for departmentalism, but for legislative supremacy.

From the point of view of some subsequent Democrats, Jefferson's position seemed undemocratic, for it made each branch of government—rather than, say, the people at large or through their representatives—judge of its constitutional powers and rights. Without enshrining Jefferson's departmentalism as law—perhaps it is a specifically executive understanding of constitutionalism, after all—Marshall prudently defined the Court's interpretive power over the Constitution in the context of the judicial function, thus invoking the departmental principle even as he read his department's charge in a grand way.

The Future of Constitutional Resistance

IT IS DIFFICULT TO INVOKE THE ORIGINAL understanding of constitutional resistance as a model for the present time. To say resistance plays a crucial role in the Constitution's interpretation is already to appeal outside the text alone—as Publius himself does when he writes in *The Federalist*, “Tis time only that can mature and perfect so compound a system, can liquidate the meaning of all the parts, and can adjust them to each other in a harmonious and consistent whole.” Through a series of controversies and disputes—for example, the Virginia Court of Appeals' repeated denial that the U.S. Supreme Court had jurisdiction to take its cases on appeal, or President Jackson's Veto Message declaring the Bank of the United States unconstitutional despite the contrary decision in *McCulloch v. Maryland* (1819), or Northern personal freedom laws meant to prevent capture of free blacks as fugitive slaves—a tradition developed of testing Supreme Court doctrine in the court of public opinion. These efforts did not encourage disobedience to final decrees of undoubted authority, but they did firmly reject what were thought to be mistaken precedents. The judges knew that if they were to make unpopular decisions, they would have to be willing to persist and be able to persuade.

The Civil War obviously changed thinking about state resistance to judicial decisions, and Congress passed several statutes

in the 1870s designed to enhance the federal courts' institutional authority. Still, in the political struggles over the growth of a central regulatory and welfare state, judicial decisions striking innovative legislation did not silence legislative attempts, especially in the states, to modify a rejected scheme, to pass similar legislation in another venue, or to keep an issue before the courts. It is probably only with the discrediting of the “massive resistance” campaign organized against the Supreme Court's decision in *Brown v. Board of Education* (1954) that the spirit of resistance fell into general disfavor. It was precisely in response to this civil unrest that the Supreme Court for the first time asserted that its own decisions are, like the Constitution itself, the “supreme Law of the Land.” But even here it would be wrong to jump to conclusions. What discredited public opposition to *Brown* was in part its ugly violence, while the constitutional resistance I have been writing about is peaceable if sometimes stubborn. Besides, if resistance is an appeal to the public mind, the failure of some particular appeal does not argue against the right to make it, and in fact vindicates the winning side. The settled consensus in favor of civil rights emerged in the wake of the opposition's failure, and it has been argued that *Brown*'s chief practical effect was as a catalyst to win civil rights, not as a precedent for judicially imposed integration.

What, then, is the status of constitutional resistance today? At first it might seem odd to say that its spirit has waned with the rise of judicial supremacy. Civil disobedience, after all, is almost routine as a tool of political protest, in causes across the political spectrum, and it remains a ready avenue to media attention. But while law-breaking as a form of expression is tolerated, challenging the court *within* the constitutional frame has come under severe pressure. Section 1983 lawsuits—brought under a statute originally passed to enforce Reconstruction and extended in recent years as a promiscuous license to challenge state and local officials who, acting “under the color of law,” violate rights—stand as a threat to authorities inclined not to implement the Supreme Court's latest whims. Moreover, the power of the federal courts to issue injunctions—once a separate power of equity not available in ordinary suits at law—vitiates the old adage that judges have “neither force nor will.” The practice of fining officials who delay obedience to judicial decrees quickly determines the price of dissent. These are the real weapons of judicial supremacy, and while they are partly statutory in origin, they are quickly becoming accepted practice. We complain of incivility in public affairs today, and yet here is an example of how

it is encouraged. Loud disobedience to grab public attention is commonly accepted. The traditional chess-like game of resistance and compliance in the forging of consent for constitutional doctrine within a complex framework of institutions, by contrast, meets the heavy hand of state coercion.

There are, of course, still avenues for constitutional resistance when the courts overreach, and possibilities for innovative, constitutional response come readily enough to mind to those who can free themselves from the shibboleth that the Supreme Court has the final say over the meaning of the Constitution even when the justices are wrong. Leaving aside the attention-getting gimmicks, the outcry against the recent decision in *Kelo v. New London* (2005) promises real change in the government policy of using eminent domain to take people's homes for planned development. The pro-life movement, after years of frustrated attempts to overturn *Roe v. Wade* (1973), is discovering, step-by-step, how to build up a body of acceptable statutes and moderate precedents to seek better judgments eventually on when life begins and deserves protection. Nor have those who oppose affirmative action been dissuaded from seeking policy change or, for that matter, constitutional reversal, by the Supreme Court's decision in *Grutter v. Bollinger* (2003) that race may be used as a criterion in university admissions for the time being.

In the long run there is no substitute for an elected official's willingness to defy activist judicial claims to the full extent of his constitutional authority. We often read the middle papers of *The Federalist* as though making ambition counteract ambition in the scheme of the separation of powers were a matter of raw competition. I think Madison's understanding in the 1800 Report is truer to the spirit of the Constitution and perhaps what he meant all along. At issue in the competition is not raw power but reputation: who can persuade the public mind that they have the public interest and the Constitution on their side? It is good to have Supreme Court judges who profess adherence to the principle of judicial self-restraint. It would be even better if that self-restraint were reinforced by awareness that they are not infallibly final in the American constitutional system—that they must content themselves with exercising “neither force nor will but merely judgment,” proud and confident in doing justice according to law, nothing less and nothing more.

James R. Stoner, Jr., is professor of political science at Louisiana State University and the author of *Common-Law Liberty: Rethinking American Constitutionalism* (University Press of Kansas).

BOOKS IN BRIEF

The Future of the United Nations: Understanding the Past to Chart a Way Forward,
by Joshua Muravchik. AEI Press,
166 pages, \$20

Joshua Muravchik has compiled a calm, well-documented, depressing survey of the United Nations' performance, concentrating on the last 15 years, which indicts the organization as hopelessly corrupt and ineffective. He sheds light on several scandals that have been swept under the rug, e.g., Secretary General Kofi Annan's cover-up of sexual harassment charges against High Commissioner for Refugees Ruud Lubbers. Other more terrible scandals, such as the pervasive rape of children by U.N. peacekeepers in central Africa, are not even mentioned. If anything, Muravchik, a resident scholar at the American Enterprise Institute, is far too generous in his discussion of the U.N.'s specialized agencies, some of which (like the World Health Organization and UNESCO) have been mired in their own corruption scandals. But his brief inventory of abuses supports his call for dismantling or at least downgrading the "political machinery" that confers distinctive prestige on all other U.N. operations. A useful set of charts at the end of the book clarifies recent trends. For instance, American isolation in the General Assembly in recent years (where the body voted with preferred U.S. positions less than a third of the time) is simply a return to the pattern in place before the mid-1990s. Another chart shows that the world's most repressive nations were less likely to be condemned by the Human Rights Commission than invited to join it. Muravchik offers no grounds for hoping that recent gestures toward "reform" will make any meaningful difference to the U.N.'s actual performance.

—Jeremy Rabkin
Cornell University

How Progressives Rewrote the Constitution,
by Richard A. Epstein. Cato Institute,
156 pages, \$15.95

In the introduction to this elegantly reasoned book, University of Chicago Law School professor Richard Epstein prints a small chart showing a steady decline in child labor in the United States between 1900 and 1930. While discussing an array of cases (and occasionally summarizing them a bit too quickly for non-lawyers) Epstein refers back to the chart at reg-

ular intervals. It is the book's touchstone. Along the way, he notes other findings for the same era such as reductions in the average number of hours worked, lengthening average lifespans, and increasing wages to make a simple point: Progressives did not have to rewrite the Constitution to solve the social problems of their day. The early 20th-century Supreme Court, with its limited conception of police power and broad conception of liberty, was neither narrow-minded nor simplistic. Economic and technological change did not render its constitutionalism obsolete; Progressive jurists and lawyers simply assumed that it did. "The older conceptual scheme did not collapse of its own weight. All that really happened was that several justices lost faith in it, without being able to show where it broke down." The result was unfortunate. Under pressure from the New Deal, the Court allowed more restrictions on economic and personal liberty. Since then, they have changed course, allowing ever more scope for personal liberty, while holding the line on economic liberty. Constitutionally speaking, the result is mush. As a whole, the book provides a sound introduction to the case against legal Progressivism and for the Constitution. Like other books on the Progressives it raises an interesting question: why were they able to fool so many people for such a long time?

—Richard Samuelson
The Henry Salvatori Center

A People's History of the Civil War: Struggles for the Meaning of Freedom, by David Williams.
The New Press, 594 pages, \$30

Socialist Howard Zinn titled his oracular account of America, *A People's History of the United States*. Now, more than a quarter century after its publication, his tirade against "guns and greed" has given rise to a book series. Written by various Zinn devotees, the "people's history" books include accounts of the American Revolution, the Vietnam War, and now the Civil War.

It is no surprise that David Williams's mostly Marxist tale presents "common folk" or "working folk" as its heroes and "wealthy elites" as their nemesis. According to Williams, who teaches history at Valdosta State University, American capitalists divided the downtrodden against each other throughout the Civil War era, thereby controlling the dispossessed, including poor whites, women, blacks, and In-

dians. Bound by this ideological straitjacket, he wobbles between repetitive generalizations about the poor and jeremiads against the rich.

While offering only fleeting glimpses into the lives of ordinary citizens and soldiers, the book's framework also fails to account for the trajectories of great Americans like Abraham Lincoln. If dollars are destiny, how did a Kentucky backwoodsman become the Great Emancipator? In fact, Williams spares no invective in his mistreatment of Lincoln. "Though differing with Confederates on the issue of disunion," he writes, "Lincoln was united with them in his racist views." For Williams, Lincoln is just another "elitist."

—David J. Bobb
Hillsdale College

A Higher Form of Cannibalism? Adventures in the Art and Politics of Biography, by Carl Rollyson.
Ivan R. Dee, 198 pages, \$24.95

The title comes from Rudyard Kipling's colorful characterization of biographies. *A Higher Form of Cannibalism* is a lively, anecdotal, loosely organized survey of the challenges faced by biographers in their attempt to collect, shape, and publish what they have come to regard as the truth about their subjects. Carl Rollyson, an English professor at Baruch College and a successful American biographer whose subjects include Rebecca West and Lillian Hellman, not only accedes to the charge that biography has become a "bloodsport" but claims that it has always been, and must be, so. Whether or not the biography is "authorized" by the subject (or the family or estate), his interests and those of the biographer are fundamentally in conflict. While the former wants a positive portrait or no biography at all, the latter seeks to produce a book that conforms to what he has discovered from more sources than the subject is aware of—or would wish to divulge.

Rollyson demolishes many of the pieties surrounding what is, after all, a popular and commercially successful genre whose most severe critics tend to be journalists, academics, and writers intent on separating their written works from their private lives. The "adventures" that illustrate his points include disputes between Boswell and Johnson, between J.A. Froude and Thomas Carlyle's admirers, between Richard Aldington and those interested in preserving the legendary T. E. Lawrence, and between Ian Hamilton and J.D. Salinger. Rollyson also

looks at the works and methods of Richard Ellmann, who has written on James Joyce, Oscar Wilde, and W.B. Yeats, and who is nearly unique among biographers for being admired and respected by writers and critics who are not themselves life-writers.

Though shamelessly self-promoting and filled with the writer's harsh disapproval of other biographers and his own reluctant subjects, the book is so uninhibited in both defending and indicting what Joyce Carol Oates has labeled "pathography" that most readers will find plenty to detest and to admire.

—Mark A. Heberle
University of Hawaii at Manoa



Leo Strauss and His Legacy: A Bibliography,
edited by John Murley. Lexington Books,
952 pages, \$95 (paper)

John Murley admirably continues the mission he took on more than a decade ago—cataloguing the work and impact of Leo Strauss. In *Leo Strauss, the Straussians, and the American Regime* (1999), he and Kenneth Deutsch collected accounts of Strauss's American career, the storied first generation of his students, and the way his teachings led to fresh understandings of American political institutions and political practice. Murley's latest book, an exhaustive bibliography of Strauss's writings and the writings of all those whose work is "illuminated...by the light" Strauss cast, is the appropriate companion volume. With some 15,000 entries chronicling the work of 800 or so writers, *Leo Strauss and His Legacy* draws attention away from the rants and fantasies of Anne Norton and Shadia Drury and returns it to Strauss's genuine scholarly legacy and intention.

—Larry Peterman
University of California, Davis



Tehran Rising: Iran's Challenge to the United States,
by Ilan Berman. Rowman & Littlefield,
240 pages, \$24.95

Besides tracing Iran's export of radical Islam and its connections to al-Qaeda, Ilan Berman's new book shows that Iran is expanding its support for anti-American forces around the globe. The central question raised by Berman, a professor of International Law and Global Security at the National Defense University, is what, given all this, America's policy on Iran should be. Preemptive attack to destroy the facilities scattered over the country may not be the best option. Russia's pending sale of air defense systems, as well as Iran's recent promise to use its

2000-kilometer-range missiles in retaliation for such an attack, make the results uncertain.

Instead, he advises sustained public diplomacy, e.g., beaming information to the Iranian people via satellite. Of course, in 2003, the Ayatollah ("the product of the Kremlin's premier finishing school for third world radicals," Berman reports) had his friend Castro use Cuba's electronic warfare facility to jam both official and private broadcasts from the U.S. to Iran. In any event, the success of public diplomacy would depend on whether the Iranian people are inclined to adopt a different form of government. On this count, the author thinks "the Islamic republic today resembles nothing quite so much as the Soviet Union in the final, dismal days of the Cold War."

—Tom Karako
The Claremont Institute



Rescuing Canada's Right: Blueprint for a Conservative Revolution, by Tasha Kheiriddin and Adam Daifallah. John Wiley & Sons, 281 pages, \$18.95

You may have noticed that, in January, Canadians elected a Conservative government instead of the usual Liberal one. This event, though unusual, is not revolutionary—it remains the case that "North of the forty-ninth parallel, the word 'conservative' has become as much of an epithet as 'liberal' has in the United States." No single sentence more effectively captures the political landscape of America's northern neighbor than this one, which opens *Rescuing Canada's Right*, a patriotic call to arms for Canadian conservatives.

Tasha Kheiriddin and Adam Daifallah, both journalists, believe the challenge facing Canadian conservatives is to overcome the status quo. They encourage conservatives to reform Canadian culture, so that it no longer "prefers mediocrity to merit and favors opportunists over those who create opportunity."

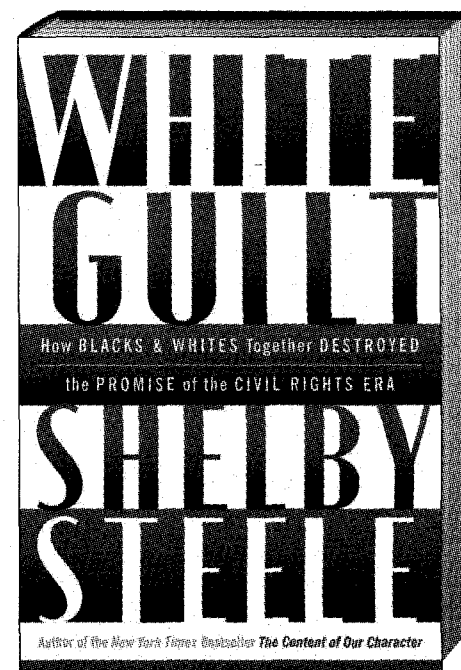
For decades, Canadian conservatives have waited for someone to rescue them from the political wilderness. In the meantime they have busied themselves by forming new political parties and renaming old ones. The authors recommend, instead, that conservatives build an entirely new policy infrastructure from scratch—in effect, that they construct a conservative movement, to some extent along American lines.

Waiting for others to solve problems is characteristic of liberals; acting with others to solve them is characteristic of conservatives. They conclude that it's high time Canadian conservatives start acting like conservatives.

—Murray S.Y. Bessette

A Provocative Look at How Blacks & Whites Together Destroyed the Promise of the Civil Rights Era

From the Award-Winning Author of
The Content of Our Character

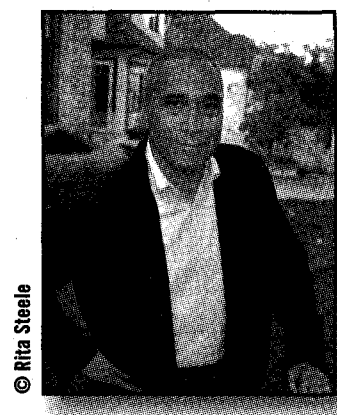


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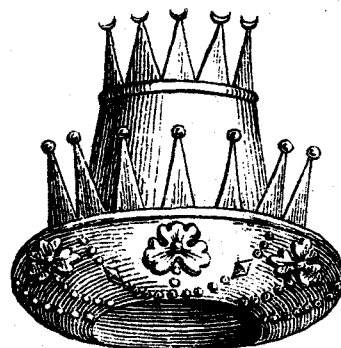


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BETWEEN EAST AND WEST

Sons of the Conquerors: The Rise of the Turkic World, by Hugh Pope.
Overlook Press, 432 pages, \$35



The Turkish Crown

QUESTIONS FOR THE FOREIGN POLICY-minded: During the Cold War, which NATO ally maintained the second-largest army? Which shared the longest frontier with the Soviet Union?

If you guessed Britain and Norway, respectively, you are wrong; the answer in both cases is Turkey. Canadians of conservative bent may like to think of themselves as the forgotten ally of the United States, but the Turks surely have a stronger case—Turkey bore the burden of the Cold War to a greater extent than most of our other allies. Recall, for instance, that the denouement of the Cuban missile crisis included an agreement to remove Jupiter missiles from Turkey (a decision about which the Turks were evidently not consulted).

If Americans think of Turkey at all today, it is probably in the context of its troubled history of accession negotiations with the European Union, or the country's refusal to permit transit to American troops prior to the Iraq War in 2003. Few recall Turkey's long history of ruling the Balkans, its contributions in the Korean War, or even the siege of Gallipoli in World War I (an event Australians will never forget). Still fewer are conscious of Turkey's current push for influence in Central Asia in competition with Russia, Iran, and China—a modern Great Game in which America, too, is keenly interested. We have to be reminded that the Turkic world stretches from the Adriatic to the western deserts of China, from northern Iraq and Iran to the vast steppes of Kazakhstan and southern Russia.

Hugh Pope's *Sons of the Conquerors: The Rise of the Turkic World* is a significant effort to correct this gap in Americans' historical and geopolitical understanding. Pope is Istanbul correspondent for the *Wall Street Journal*, and the book shows reportorial insight and occasional

boldness. It is essentially a series of portraits of Turkish and Turkic communities (though he strangely omits northern Cyprus). Along the way in Pope's journey, we meet personalities such as Isa Alptekin, leader of the 1940s nationalist movement in Chinese Turkestan (modern Xinjiang); Islamist businessmen who have made fortunes since the economic reforms of the 1980s and 1990s; and young Azeris torn between Turkic identity and Russian culture. Not nomadic like the Mongols but sharing with them a love of military tradition and the hard life of the steppe, the Turks have fashioned a vibrant democracy in a relatively short time. Turkey's economic growth in recent years, based on privatization and freeing the economy, is equally impressive. (After meeting then-Prime Minister Turgut Özal, President Reagan remarked that Özal was a "real Reaganite.")

IT IS HARD TO VISIT ISTANBUL AND NOT BE reminded of the dreams of faded empire. Or rather *empires*: Constantine, Justinian, Mehmet the Conqueror, among others, all ruled from the city straddling Europe and Asia. And this legacy looms large in modern Turkey. Pope introduces us to Mehmet Ali Bayar, the foreign-policy advisor to former President Demirel, whose family is from Pristina in Kosovo on his father's side and from the Caucasus and Bulgaria on his mother's side. "I haven't got a drop of Anatolian blood in my veins," he says. This phenomenon is at the center of the modern Turkish debate over identity. Chaos during and after World War I and the breakup of the Ottoman Empire changed not only Turkey's political status but with the expulsion of the Greeks and the mass murder of Armenians, its ethnic composition as well. Before WWI, explains Pope, Turkishness meant something more expansive than Turkish ethnicity and

Muslim faith. Thus "[f]or 1920s Turkey, this sudden Turkish-Muslim monopoly was arguably more revolutionary than [the] new nation-state ideology." As Pope notes, "the Turkification of Anatolia [was] a triumph of national will, rather like the history of France, where few people originally spoke French. Assimilation, education, population growth and sometimes massacres mean that the proportion of those who now consider themselves ethnic Turks is more than seven in ten."

Yet if memory of lost empires alone were a sufficient bond among the nations of Europe, Turkey would have joined the E.U. long ago. The question of Turkey's relationship with Europe dominates the country's politics and reverberates in such countries as France, Germany, and the Netherlands. In the latter two, the question of Turkish accession influenced, perhaps decisively, the debate over the ratification of the proposed European constitution, even though it was nowhere mentioned in the document.

Europe, in Turkish lore, is the *kızıl elma*, the "golden apple." And yet many Turks are as ambivalent about joining the E.U. as Europeans are about admitting them. Pope writes that "Turkey probably wouldn't want to join the E.U. unless it had evolved into a purely economic and trading organization." (This was Margaret Thatcher's vision of the Union, which has been strongly resisted by the French and Germans.) For Mustafa Koç, chairman of Koç Holdings, Turkey's largest company, "[t]he journey towards E.U. membership was more important than actually getting there." Pope observes that many leading Turks seemed to want "recognition of Turkish equality with Europe rather than a dilution of Turkish sovereignty in a new European partnership."

Can a large and relatively poor country like Turkey play a role in Europe? Yes—though for

Turks part of the danger is that they could be seen merely as janissaries for countries to their west who choose not to support large standing armies. But the question circles round and round, admitting no clear answers. Always in the background is the Atatürkist vision of secularist integration into Europe; always in the foreground is the reality of Turkey as a nation of 80 million predominantly Muslim, relatively poor citizens. If Atatürk were alive, would his Francophilia lure him towards the E.U.—or would his nationalism rebel at the poor treatment of many Turks in western Europe, and his secularism scorn Europe for not taking a tougher line against Islamic militancy?

THE TURKIC CENTRAL ASIAN NATIONS are a different case. Unlike Turkey, which in the past 20 years rapidly left corporatism behind, the “stans” suffered under the Soviet yoke for 70 years. And the effects go well beyond the typical backwardness and corruption of most post-Communist countries. In the 1930s, Kazakhstan lost 1.5 million people, about 40% of its population, to a “Moscow-inflicted” famine—a percentage perhaps higher than the Ukraine suffered in its notorious famine. Stalin’s nationality policy deliberately confused borders and divided ethnicities and populations. The effects of Soviet-era mismanagement of the environment are particularly tragic in Central Asia. The Aral Sea, once the world’s fourth-largest lake, has shrunk by 80%.

But despite this terrible heritage, the Central Asian states still reflect to a remarkable degree their Turkish heritage. Although the Turkic world’s physical boundaries have been fluid, its cultural and linguistic boundaries remain surprisingly intact even after decades, sometimes centuries, of separation from the modern Turkish heartland. Hence despite misrule and tyranny, which are thought by some to prepare the ground for radicalism’s appeal, militant Islam has made few inroads into Central Asia—though these countries share borders with Iran and Afghanistan. Pope concludes, probably correctly, that the threat from Islamism in the region is remote given the “politically secular proclivity of the Turkic peoples.”

Three Central Asian states—Azerbaijan, Kazakhstan, and Turkmenistan—possess vast reserves of oil and gas that are the source of prosperity for a privileged few and hold the potential for genuine national development. Oil is a mixed blessing. With oil, the author explains, “[g]overnments can fund budgets and distribute patronage without any need to consult the people, a situation that corrodes legitimacy, breeds corruption, discourages free enterprise and undermines the national sense of purpose.” He rightly quotes an Azeri cleric’s view that

“[w]hen money comes in the door, faith leaves through the window.” For “faith,” one may also substitute “democratization,” “civil society,” and “honest government.”

Some Central Asian countries have done better than others. Kazakhstan, awash in oil, features serious corruption but also the absence of terrorism. Relations with the substantial ethnic Russian minority are generally positive. Pope remarks on the “impressive bureaucrats of the Kazakh central bank and the increasingly international bankers of Almaty,” whose work provides a foundation for a strong economic future, though it remains unclear how the spoils will be shared.

A less fortunate case is Turkmenistan. Pope is surprisingly lenient on its president, Saparmurat Turkmenbashi Niyazov, whose extravagant personality cult would be comic were it not for the real repression in the country. Among other lunacies, he renamed the month of April after his mother, placed his book the *Rukhnama* in mosques alongside the Koran, and constructed a golden statue of himself that rotates to face the sun.

But the worst comes after crossing the Chinese border. The Beijing government has sought to erase evidence of Uighur life in Xinjiang (Uighurs are a Turkic-Muslim and nomadic people), sometimes literally bulldozing old Uighur communities to make new streets for the Han Chinese population. The name of Rebiya Kadeer, the leading Uighur activist and businesswoman, deserves to be better known in the West, as do the struggles of her people. But no movie stars have converted to Uighur-inspired Islam, and so the persecution of the Uighur community is less familiar in the West than that of Tibet to the south. Still, Pope finds Turkish chocolate bars in the markets in Xinjiang and sees the faint flicker of the Turkic past in this former stop along the “Silk Road.” In this remote spot, Istanbul is still closer than Shanghai.

AFTER SEPTEMBER 11TH, TO THE GREAT annoyance of the Russians, the Turkic countries generally cooperated with the U.S. in the War on Terror. Now the situation is more complex. U.S. forces left Uzbekistan after the massacre of civilians in Andijan in May 2005, and four of the five Central Asian countries have since joined with Russia and China in forming the Shanghai Cooperation Organization, designed to counteract Western influence in the region.

Unlike the Central Asians, however, Turkey has been developing a bold foreign policy that the author describes as “self-protective, opportunistic and viscerally independent-minded.” But this should not alarm the U.S., for such a foreign

policy can easily align with American interests. Turks served as peacekeepers in the Balkans, reinforcing the NATO role there; and America quietly supports Turkey in the contest for influence in Central Asia. Turkey has influence with the Turkic nations in the Shanghai Cooperation Organization. The generally moderate face of Turkish Islam is a point of attraction to many reformers in the Iranian and Persian worlds. Although Turkey remains adamantly opposed to an independent Kurdistan in northern Iraq, relations with Turkey’s own Kurds have improved dramatically since the capture of the terrorist Abdullah Ocalan in 1999—and as the result of Europe’s pressure to improve human rights as a prelude to E.U. accession talks. More broadly, there is a meeting of the minds between Americans and Turks. As businessman Mustafa Barutcuoglu says, “It’s easier to cooperate with the Americans. We’re good at the small things; they’re good at the big things.”

This is so even considering the most bitter disappointment in recent U.S.-Turkish relations: the Turkish Parliament’s refusal to permit transit of U.S. troops before the Iraq war. As Pope recounts the story,

politics were as strong a force as any Islamic sentiment. It was secular groups on the far left who gloated most over the discomfort of the American superpower, not the Islamists. [Prime Minister] Erdogan’s pro-Islamic party sought to align itself to the United States and especially the European Union, while the ‘pro-Western’ army and republican establishment sought to keep Washington and Brussels at arm’s length.

While the vote was distressing to the U.S., at least it was a vote in a freely elected parliament. And the resolution only failed by nine votes—surely vibrant democracy in action, even if America did not like the result.

G.H.L. LeMay, tutor of British history at Worcester College, Oxford, used to describe British diplomatic practice during the 19th century in this way: “Britain maintained ambassadors only at capitals which were of importance at any particular time.” Then he would pause for dramatic effect, and say: “Always at the Porte.” Pope is correct that “the Turkic world does not yet add up to the sum of its many parts.” But Turkey and the Turkic world could be central to the 21st century, if they so desire.

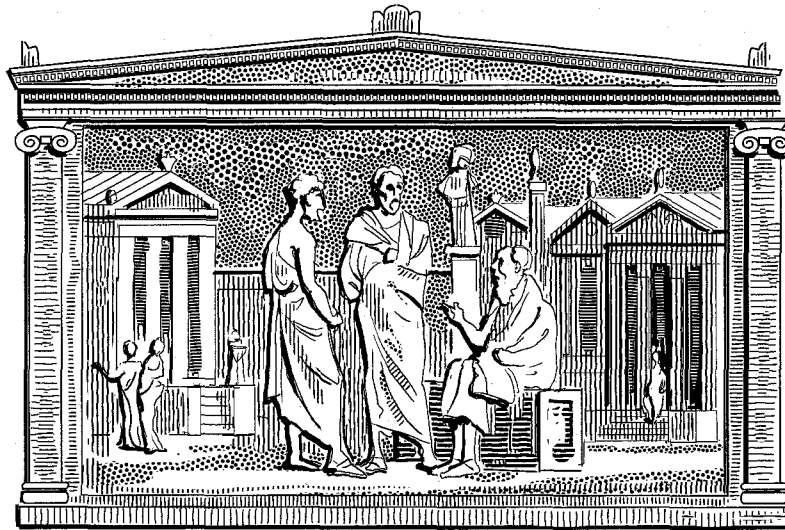
John S. Gardner was General Counsel of the U.S. Agency for International Development from 2001 to 2005. He has also served as a Deputy Assistant to President George W. Bush and a Special Assistant to President George H.W. Bush.



Book Review by Eva Brann

PLATO'S IMPOSSIBLE POLITY

Plato's Republic: A Study, by Stanley Rosen.
Yale University Press, 432 pages, \$45



PLATO'S *REPUBLIC*, STANLEY ROSEN SAYS at the beginning of his book, is "both excessively familiar and inexhaustibly mysterious." Thus it invites ever more interpretations, not, I think, by reason of any willful indeterminacy or woolly grandeur on Plato's part, but because a false sense of knowing the work makes us overlook telling detail. Therefore a serious fresh reading of this mother text of philosophy, psychology, politics, and pedagogy will always be of great interest.

Rosen's study of the *Republic* is such a reading. It is extended—one third longer than the Platonic text itself—and densely packed with interpretations. And it is unfailingly interesting, for it is boldly conceived and strongly expressed, though its theses are moderated as good sense requires.

His underlying hermeneutic principle and its first consequence are set out in the Introduction and sustained through the book's fourteen chapters. They are, baldly stated, that *Socrates means what he says*, and that Plato could not quite learn his own Socrates' lesson. The first part of this principle expresses just what my freshmen think, but only until they come up, in the dialogue itself, against Thrasymachus' hostile interpretation of "that famous Socratic irony," his dissembling affectation of ignorance. Thus taking Socrates simply at his word turns out to have strange implications, among them the consequence mentioned (that Plato doesn't quite get it), which these same students—and Rosen means his readers to include the likes of them—would find plainly

implausible. For, if Socrates says just what he thinks, then, they suppose, what he says is what Plato thinks. Yet Rosen's interpretational possibility accords to this particular dialogue an air of pathos that, in a certain mood of reading, does invest all the dialogues: a Socrates inexorably talking himself into execution, an Athens in headlong moral fall unstoppable by philosophy, a crew of beautiful youths—Charmides, Alcibiades—apparently attached to the man they imagine is their teacher and to whose teachings they are at heart recalcitrant. Rosen sees the *Republic* from some such perspective, but also from an even stranger and more poignant one: it is the record of a failed attempt to cure philosophers of their compulsion to seek power. It is remarkable that his mode of inexorable rationality should invest the work with so much feeling.

More than once Rosen invokes Nietzsche, who understood Socrates as an anti-tragic goblin, ready to undermine human gravity in the name of a willful rationality. Socrates, Rosen intimates, displays a will to power in his dream, the first such, of a political community governed by idea-mongers, ideologues, rather than by practical people of breeding and tradition. Thus the *Republic* is the womb of that wicked witch of the West, *ideology*. I think that he is surely right about the evils of ideology, but he has got to be somewhat wrong about the part played by Socrates in the *Republic*, as I will argue all too briefly below.

If Socrates' personal mode of dissembling is a pedagogical precaution against his own power

of indoctrination, then it is not the same as, is indeed rather opposed to, the compositional practice of secreting dangerous truths in a text so as to make them accessible only to very attentive and able readers. Rosen learned to clue out such hidden meanings from Leo Strauss, and it is to the "genuine Leo Strauss" that the study is dedicated. Nonetheless it presents a very significant modification of Strauss's approach. On the esoteric reading, Plato fully understands all the flaws of the perfectly just city to the construction of which the first half of the *Republic* is devoted. Thus the inside teaching is that extremism, the attempt to institute ideal justice on earth, will end in disastrous injustice, for this city is extremely coercive. Rosen points out that an argument against this thesis as an esoteric one is that it says just what Greeks, to whom philosophers were suspect, tended to believe anyhow. Rosen's new departure, then, is this: if we attend to Socrates' "shockingly open" statements of the measures actually required to institute political wisdom (or justice), we see that wisdom is tyrannical; truth cannot brook untruth. But nothing is worse on earth than ancient tyranny or its modern twin totalitarianism. When Karl Popper, Plato's most effective modern opponent, accuses Plato of the latter, he is, Rosen says, correct, though he is blind to the reason why the theoretically best life must ever be the deadly enemy of the good or even the livable life, namely that truth is necessarily intolerant of perceived untruth. Rosen here takes a well-justified swipe at modernity's way of attempting to defang the

intellectuals who think that justice is to be instituted by doctrine: through side-lining them by relativizing tolerance, a flabby mode Rosen, following Nietzsche, calls decadence.

I cannot bring myself to think that Plato's inquiring, ever-perplexed Socrates, the living antidote to those concept-mongering professors called sophists, actually enunciated such righteous extremism, any more than I believe that there cannot be a taut tolerance that opts for critically comprehending inclusiveness rather than for self-indulgent subjectivity.

BUT ROSEN GOES FURTHER: PLATO'S OWN life, he points out, countermands the lesson taught by his teacher. In the face of his own Socrates' brutally clear warning, he succumbed to the temptation of bringing theory into practical politics in his ill-fated ventures at the Syracusan tyrant's court. Rosen's account seems plausible. What else could have possessed Plato, unless it was hopeless naiveté—not a likely characteristic for the man who had himself thought of everything that Socrates cannily says in the *Republic*. In so succumbing, Plato opened the way to the aforementioned political evil of the West, social construction. Rosen's hermeneutic complexities surely make it possible to read into the *Republic* a scope of influence not hitherto noticed.

But are they well taken? As I said, I think that something goes wrong, not because Socrates does not indeed mean what he says, but precisely because Rosen himself does not allow him to say what he means: "We watch it," Socrates says at the beginning of the just city's construction, "coming into being in words" (369 a)—for the sake of studying the just soul, whose justice turns out to be a well-adjusted, well-constituted framework in which the parts are differently balanced for differently constituted natures. The analogy of the soul to the city is criticized by Rosen in his Epilogue, and there his reason for understanding the construction of the ideal city as the central purpose of the dialogue rather than as a means to something else comes out with plain finality: Rosen has assumed from the beginning that the *Republic* is meant to be a political dialogue.

But is it? This soul-like city, which begins as a construct of words, is said at the end as well to be "founded in words" (which in Greek tends to imply "and not in deeds"). It is in fact impossible as a terrestrial city and exists only "laid up as a model in heaven for anyone to look at who wishes to found himself" (my italics: *heauton oikizein* [592 b]). Now what on earth is Socrates saying here but that it is not a political but a psychic, a personal, polity that has been founded? To be sure, Rosen considers this passage and interprets it as meaning that the philosophers should

conform their soul to the just regime, though in the preceding books, on the staged decline of the just city, it has always been the regime that conformed to the souls of its citizens.

THUS FAR I HAVE REPORTED ON THE Introduction, which is so idea-laden that I have by no means done it justice. The fourteen chapters that follow take up first the participants in the conversation and then, following the order of the text, the stages in the construction of the just city up to the philosophical center of the dialogue, including the institution of the philosopher-kings and their study of the Good. Then follow considerations of the stages in the best city's decay as the citizens' souls are corrupted; of Socrates' critique of poetry as ethically dangerous and ontologically inferior; and finally of the soul's afterlife.

Here I must pick and choose; all the chapters offer much to think about and something with which to engage. So I will go to Part III, which comprises Chapters 8-10, Rosen's study of the philosophical, that is to say, using a later term, the metaphysical center of the *Republic*, and within that center to the account of the Good (which is spread over the three chapters). For this mysterious Good is the culmination of the dialogue and to it the philosophers who are to be kings must ascend and from it they must come down, now prepared to rule. Let me say right away that this, the preparatory value of the Good, is what Rosen denies: "the...Good seems to be of little help to the philosopher-king... We acquire neither practical nor theoretical knowledge by gazing at the Good..."

So, first, who is this philosopher-king for whose benefit the *Republic* has a metaphysical center? Open the book to its middle by page count and there he is (or she, as Socrates explicitly says)—the central human figure of the dialogue, whose introduction will raise a huge wave of derision. Rosen rightly emphasizes a crucial aspect of these philosophers: they "depend upon the existence of Ideas"; their "most important qualification is to 'see' the Ideas." Accordingly, Rosen has not only explained very clearly in various places what a Platonic idea is—minimally, a formal structure necessary for identifying and speaking about things—but he has also set out lucidly what is problematic about it. He emphasizes that these structures are conceived as patterns or models, and Part III begins with a very illuminating discussion of the several meanings of Plato's term *paradeigma*. Thus, philosophers have non-sensual patterns to look to. But then the question is: how does that make them fit to be kings? Rosen thinks that Plato has shown only that philosophers are lovers of ideas but not at all how the ideas bestow the practical knowledge required for king-

ship. I would respond that the Socratic position is that to know the ideas of Courage, Temperance, and Justice is to be courageous, temperate, and just—surely a good beginning for the life of a ruler.

The source of the being, growth, and knowableness of the ideas themselves is that notorious Good. It too is, I think, a defensible preoccupation for those who are to govern. Socrates presents it in a simile, a verbal image (*eikon*). The Good is like the sun in its being and power—except that it has no being, for it is "beyond being" (509 b). Rosen reasonably asks us to accept the idea of the Good as "intrinsic" to the intelligibility of human existence. But then he balks at the one metaphysical feature assigned to it, its "beyond-being."

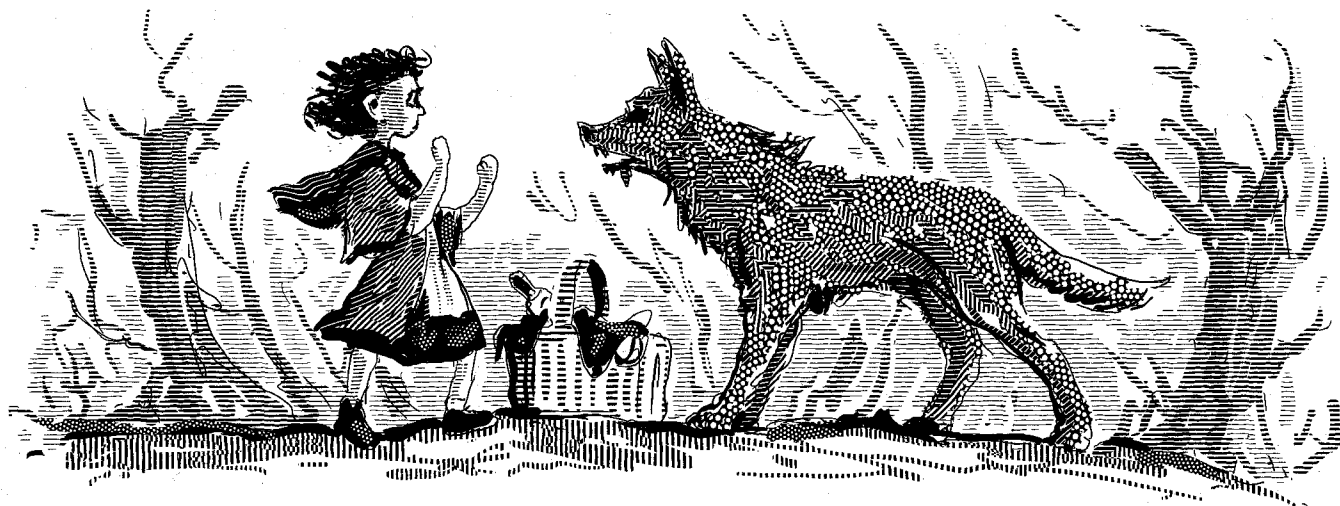
Yet the Good is not quite sufficiently delineated as perhaps "a set of properties of Platonic ideas," nor put aside as "too cryptic to be amenable to an entirely satisfactory explanation." The ancient tradition is that "The Good" was a name for "The One," the comprehending source of unity, the principle of "one-out-of-many," not itself a being but the unity of all beings. It is the very principle of our republic: "E pluribus unum." That is why the philosopher-kings must come to behold it; far from being useless, it is the knowledge of communities, whether of ideal beings in their ontological context or of human beings in their private friendships or in their civic associations. For the philosopher-kings, even if they have, by my notion, no city but only themselves to rule, are yet friends and fellow-citizens. Don't those of us who still teach the liberal arts (the very arts set out in the *Republic*'s curriculum for philosopher-kings) hope to educate citizens in just that way, by asking them to think about what it means to be together as a community emerging from individuals?

Perhaps Rosen's demand for an entirely satisfactory explanation is a little too heroic for this dialogue, which is pervasively likeness-ridden. Indeed the cognitive and constitutional principle set out in the Divided Line is that of a hierarchical cascade of images, down to mere shadows. This lowest segment is apprehended by a power called *eikasia*; not "image-making" or "imagination," but "image-comprehension"—the ability to recognize images—and through them the intelligible Platonic originals. My preference for the way to lead people into the *Republic* is through musingly squishy analogical thinking. But Stanley Rosen is probably incapable of anything but intellectual hard-hitting. Thus he offers a severe but utterly clear perspective on Plato's Socrates, which is full of interest and, to its glory, totally devoid of jargon. Anyone can read it and learn.

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LET SLEEPING BEAUTIES LIE

The Norton Anthology of Children's Literature: The Traditions in English,
edited by Jack Zipes, Lissa Paul, Lynne Vallone, Peter Hunt, and Gillian Avery.
W.W. Norton & Co., 2,471 pages, \$76.70



PARENTS HAVE ALWAYS FRETTEd ABOUT what to read to their children, and experts have always been ready with advice. In their educational writings, John Locke and Jean Jacques Rousseau together mentioned only three books worthy of a child's mind. Locke recommended *Aesop's Fables* and *Reynard the Fox*, while in *Emile* the tutor Jean Jacques offered his charge only *Robinson Crusoe*. How times have changed. The new 2,471-page, lap-crushing *Norton Anthology of Children's Literature* includes several hundred entries, both old and new. But far from representing an efflorescence in childhood literature, this volume marks the genre's sad end.

The editors of the anthology acknowledge in passing their debt to Locke and Rousseau—who in a sense created our modern understanding of childhood, permanently influencing all subsequent children's literature. The editors, however, wish to promote a revolution of their own: a new, more candid, and frankly, more nihilistic corpus. Despite heralding children's literature as "life-enhancing" and "life-changing," the Norton editors aim in fact to dampen children's enchantment with the world, forcing them to acquiesce to the grim realities and multicultural obsessions of contemporary adults.

Of course, this could be because the book was never meant to be read by or to children. The editors, all scholars of some sort, with backgrounds in literature, education, and history, describe their handiwork as a "more scholarly" anthology, one that incorporates "profound changes" from earlier collections, and is intended mainly for the college student.

Whereas editors of previous anthologies "favored classic authors" and "canonical texts," with a minimum of reader notes and introductions, the Norton edition aims to be more inclusive of "emergent" literature. As the editors state, "Our critical perspectives, like those of scholars in other literary fields, have been greatly influenced by the research and criticism rooted in the feminist and multicultural movements." Their real hope is "to revolutionize the undergraduate curriculum."

The anthology is divided into 19 chapters covering various divisions within children's literature ("Chapbooks," "Primers and Readers," "Fairy Tales," "Classical Myths," "Legends," "Fantasy," "Verse," "Picture Books," "Books of Instruction," etc.). Each chapter begins with a long introduction in which the editors supply an overview of the genre's historical trajectory, and discuss its defining works, including many hitherto unknown. The chapters contain at least one "core" text in full, along with shorter or excerpted "satellite" texts. Each text is preceded by laborious reader notes, many of which are longer than the text itself. There is also a 32-page section of illustrations from some of the great picture books, including Beatrix Potter's *Tales from Peter Rabbit*, Jean de Brunhoff's *The Story of Babar the Little Elephant*, Marjorie Flack's *Angus the Duck*, Ezra Jack Keats's *Snowy Day*, and Maurice Sendak's *Where the Wild Things Are*.

The editors included some genuine classics, to be sure, some excerpted and some in full, like *The New England Primer*, *A Child's Garden of Verses*, *Peter Pan*, *Ramona and her Father*, chapbook versions

of Bunyan's *Pilgrim's Progress* and Defoe's *Adventures of Robinson Crusoe*, and the poetry of Charles Causley and Robert Graves, to name just a few. One could certainly quibble with the editors about omitted texts. Why no poetry from Emily Dickinson, for instance, or any meaningful mention of Shakespeare, whose plays were re-written into children's story form by Charles and Mary Lamb? But such quibbling is to miss the larger problem with this volume. It is not so much an anthology as a postmodernist manifesto.

AS THE EDITORS DECLARE IN THE PREFACE, "In our choice of texts and in our introductions, we have paid close attention to...perceptions of race, class, and gender, among other topics, in shaping children's literature and childhood itself." Practically every text and every author (save for the "emergent") is subjected to a wicked scolding from the editors for its racism, sexism, and elitism. Forget about ogres, witches, monsters, and evil stepmoms; today's villains are gender stereotypes, white males, the middle class, and the traditional family. Retrograde literature must therefore be replaced by a new one, one that is, as it were, beyond good and evil: "In our postmodern age, in which absolute judgments of 'good' and 'evil' are no longer easily made, the distinction between heroes and villains is often blurred."

The editors herald this as a great advance, one they wish to promote by burying the stories under a ton of commentary. To read a children's story out of context, say the editors, is so passé (so childish?): "Discourses such as reader-response theory, poststructuralism, semiotics, feminist

theory, and postcolonial theory have proven to be valuable in analyzing children's books." Thus the editors introduce *Fun with Dick and Jane* by noting that the "world of Dick and Jane was the idealized image of white, middle-class America." The introduction to the chapter on "Legends," which includes *The Merry Adventures of Robin Hood* and *King Arthur and the Knights of the Round Table*, warns that "history has generally been written by the victors and the elites, who tend to view those like themselves—white males, for the most part—as heroes."

In the chapter on "Classical Myths," the editors ponder whether myths are being "kept alive" "by unreflective adults." After all, myths are prone to "strong gender stereotyping—females are passive, males are active.... The protagonists are devoted to a ruthless elimination of the 'other' and to a savagery that is scarcely tolerated" in other children's literature. The genre of domestic fiction—which includes works like *Little Women*, *Anne of Green Gables*, and *The Bobbsey Twins*—"showcased white middle- or upper-class families." But the editors are happy to report that "the genre has come to reflect ethnic, racial and class diversity." Nor are they above offering advice to would-be authors: "still more change would be welcome here."

ALL THIS STURM UND DRANG OVER CHILDREN'S stories is hardly new. Ever since Socrates took on Homer by banning poets from the Just City, philosophers have well understood that, as Shelley put it, "poets are the unacknowledged legislators of the world." But to understand how we got here, we need not go back so far. There have been three revolutions in modern children's literature.

The first was instigated by John Locke. In founding a new political and intellectual order—a liberal, tolerant regime—he believed that reforming children's education was of the utmost importance. Notably, he advised against reading Scripture to children, because, as he wrote in *Some Thoughts Concerning Education*, the Bible was ill-suited to a "Child's capacity" and "very inconvenient for Children." Locke's aim was to take education from the hands of the clerisy, and to overcome its domineering and persecutory spirit.

Contrast Locke's sensibility with that of a contemporaneous textbook. The God-fearing *New England Primer* (c. 1690), included by the Norton editors, drilled children in their ABCs thus:

A: In Adam's Fall
We sinned all

B: Heaven to find
The Bible Mind

C: Christ crucify'd
For sinners dy'd

This was an education not simply in reading and writing, but in living and dying, one that did not condescend to the limited understandings of children. Locke rejected all this, mischievously suggesting that children learn their letters by playing dice. In the wake of Locke's reformation, a more humanistic educational literature gradually blossomed. Unlike the somber *New England Primer*, the stories were secular, rational, and geared towards children. Though entertaining, these stories were meant to impart a moral message, to help children grow into responsible adults. In this sense at least, Locke still had something in common with the authors of the old *New England Primer*.

In the late 19th century, another revolution took place, this time marked by a wholesale shift away from moralizing. A new genre of children's fantasy emerged, seeking only to entertain. One of its most prominent voices was Lewis Carroll. As the editors explain, his "mockery of instructional verse, rote learning, and moralizing school curricula helped move the genre from eighteenth-century concerns with the instruction and correction of children toward modern celebrations of play." This era is known as the "golden age" of children's literature—golden precisely because it celebrated the innocence and playfulness of childhood, and sought to free children from the grief and worry of adults. Carroll's *Crocodile*, a parody, "seemed to license childhood playfulness, fantasy, laughter, and even idleness." "The change was welcome," add the editors.

Alas, golden ages never last, and children's literature was no exception. The third and last great change occurred in the 1970s, when writers started to "push the boundaries" of material considered acceptable for children. According to the Norton editors, "In the wake of this revolution, writers for the young can deal with sex, violence, disease, and death—in particular because many believe that the innocence of childhood has been destroyed by the media and the commodification of childhood."

INDEED, IT'S HARD NOWADAYS TO TELL CHILDREN'S literature from adult literature. As the editors correctly observe, this is partly because the lines between childhood and adulthood have themselves become blurred. Locke thought that the "tender" minds of children should be protected from the corruptions of the adult world—and yet these are now the genre's warp and woof. "Children's literature has also begun to resemble adult literature in subject matter," write the editors, "using frank and provocative language to depict and discuss social problems such as homelessness, drug addiction, abuse, and terrorism and expanding the notion of family to include nontraditional families led by single parents, stepparents, and gay and lesbian parents."

Thus the postmodern adult world, in all its vulgar glory, is visited upon our children. The editors enthusiastically endorse Jonathan Miller's 1984 picture book *The Facts of Life*, which includes a "pop-up penis." Apparently, alternative families provide especially good material for young readers today. After touting the groundbreaking work *Heather Has Two Mommies*, and chiding Focus on the Family and the Heritage Foundation for seeing it as a threat to "what they call traditional American values," the editors assure us that "there are today no real taboos in domestic fiction for young adults, and few in books for the youngest readers. Family stories now tackle every painful issue imaginable."

Indeed, they do. Fairy tales, which have always dealt with dysfunctional families, especially wicked stepmothers, now take on a hard modern edge by tackling perhaps the last taboo, incest. *The Norton Anthology* contains ten versions of *Little Red Riding Hood*, beginning with Charles Perrault's classic and ending with Francesca Lia Block's *Wolf* (1998). Block, unlike Perrault, isn't satisfied with the sexual undertones and imagery of the original; her heroine is the victim of rape at the hands of her mother's boyfriend ("he held me under the crush of his putrid skanky body") whom she kills with a shotgun at her grandma's house. The editors tell us that this "story shows how a young girl can take charge of her life, while at the same time exposing the sado-masochistic ties that exist in many dysfunctional families."

Well, perhaps, but is this really a story for children? "Once upon a time" used to be a gateway to a land that was inviting precisely because it was timeless, like the stories it introduced and their ageless lessons about the human condition. But this invitation must now apparently read, "Once upon a time when women were powerless and exploited and white male hegemony ruled the world, and when the sky was dark...."

In a strange way, completely unappreciated by the anthology's editors, we have returned to the pre-Lockean age of children's literature. Locke wished to scrub stories clean of horrific images and premonitions of death—not because he was a naïf or a utopian, but because he believed it possible to build a more rational, humane world. The Norton editors break with him on this central issue. They do not believe in the possibility of a more rational world, or even, it would seem, in childhood itself. And so they have more in common with the *New England Primer* than they dare to admit. They, too, are obsessed with death and the apocalypse, only they don't believe in redemption.

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MAN OF LETTERS

Defining the World: The Extraordinary Story of Dr Johnson's Dictionary, by Henry Hitchings.
Farrar, Straus and Giroux, 304 pages, \$24 (cloth), \$14 (paper)



DESPITE SHIFTING TASTES AND TRENDS, Samuel Johnson still looms large in our literary history. And with good reason. He so dominated his own era that his contemporaries nicknamed him the "Colossus of Literature" and the "Literary Dictator," his century came to be called "The Age of Johnson" (not even Shakespeare achieved that kind of accolade), and he pioneered or perfected many of the literary genres that continue to inform our cultural life today. Johnson helped invent the modern magazine, contributing for 16 years to the success of the *Gentleman's Magazine*, ancestor of *Time*, *Newsweek*, and the like, and he fostered the birth of modern book review criticism with his articles there, in his own *Literary Magazine*, and in several other periodicals over the years. He wrote two of the most important poems of the 18th century, "London" and "The Vanity of Human Wishes." His *Rambler* essays (two a week, 104 weeks straight, 1750-52) were a must-read in his day and remained so for at least 150 years afterwards. Johnson became the first syndicated columnist, from 1758 to 1760, with his weekly *Idler* essays. His novel *Rasselas* (1759) was a bestseller (three editions its first year), has never been out of print in the 245 years since, and has become a classic of world literature, translated into Arabic, Bengali, Japanese, and scores of other languages. His edition of *The Works of Shakespeare* (1765) added momentum to Shakespeare's emergence as the national bard and broke the chokehold that rules-bound criticism (i.e., the "three unities") had long held on literature. Johnson virtually invented literary biography in his *Lives of the Poets* (1779-81), where he also practiced his cranky brand of reader-centered criticism and

elevated the "common reader" (with Virginia Woolf's later approval) as the final judge of literary merit. And, had he written nothing, he would still figure in our history as the colorful subject of what is widely regarded as the first modern biography, Boswell's *Life of Johnson*.

None of this, however, makes Johnson fashionable in academic circles, where many write him off not just as a dead white male, but as a high-church, moralistic, Tory, conservative, monarchist misogynist (take your pick). While it is true that Samuel Johnson continues to find favor with various Johnsonian clubs whose members tend to be cultural conservatives, the real Johnson is much more complex than this narrow pigeon-holing would allow. The high Anglican had Methodist, Presbyterian, Quaker, and other low-church friends, admitted to a lifetime of agonizing doubt about his faith, and was known to kneel in prayer at night with the servants. The ardent Tory was also a lifelong opponent of slavery who fiercely criticized the European conquest of Africa and America, and denounced cruelty to indigenous peoples everywhere. He hated capital punishment. His charity to the poor, the sick, and the miserable was so profound that it sometimes shocked his society friends. The supposed misogynist ("A woman's preaching is like a dog's walking on his hinder legs. It is not done well; but you are surprized to find it done at all") was actually a major critic of the exploitation of women, a leading advocate of women's education, and a supportive friend to dozens of women striving for writing careers in an era of male domination. (Mary Wollstonecraft, who met and liked him, put five of Johnson's works in her feminist anthology, *The Female Reader*, in 1789.) As

Henry Hitchings acknowledges about midway through his superb book, Johnson was in many ways "a progressive liberal."

TOWERING OVER ALL HIS OTHER ACHIEVEMENTS was Johnson's *Dictionary of the English Language* (1755), which Hitchings justifiably calls "the most important British cultural monument of the eighteenth century." In this, his first book, Hitchings has accomplished what might seem impossible: an erudite but lively and engaging account of the writing of a dictionary. He has wisely set the story of the *Dictionary* in the context of Johnson's life, deftly interweaving his narrative with factual and anecdotal gems drawn from history, literature, lexicography, and popular culture, and cleverly presenting the whole in 35 short, reader-friendly chapters averaging seven pages each. The chapters are each entitled with a dictionary word, ordered alphabetically from "Adventurous" to "Zootomy," and each ingeniously (for the most part) tied to the chapter's content, so that both the overt orderliness and the latent playfulness of Johnson's *Dictionary* are evoked throughout. The result is a book that will appeal to anyone interested in Johnson, the 18th century, the history of language and lexicography, or just an absorbing bedside read. It is a triumph, and an example of what can happen when wide-ranging scholarship, a fresh approach, and a good storyteller come together in one book.

Much of the life story will be familiar to those who have read Boswell's *Johnson* or modern biographies by W. J. Bate, James Clifford, or Robert DeMaria: the sickly and bookish childhood in Lichfield, the brief and disappointing Oxford career, the failure to make it as a teach-

er, the struggles as a young writer in London, the protracted eight-year ordeal to produce the *Dictionary*, the psychological woes of his wife's death and his recurrent depressions, the menagerie of odd characters and dependents he cared for in his household, the financial relief and celebrity that eventually came with a government pension and honorary degrees, his emergence—in precisely the years Boswell knew him, 1763 to his death in 1784—as the preeminent literary authority and character of his time.

But Hitchings has a gift for the telling detail or striking statistic that flashes new light on familiar material. He notes, for example, that in the late 1740s as Johnson labored on the *Dictionary* and other writing projects, about 25% of his annual income was going to medical expenses arising from his wife Betty's illnesses. Hitchings assembles a sampling of 18th-century street names—Cutthroat Lane, Labour in Vain Yard, Little Sodom, Melancholy Walk—to suggest the “vicious and despairing character” of Johnson's London. He notes that during the course of 47 years living in London, Johnson moved house at least 18 times. One of those moves, in 1759, was from the large house in Gough Square, with the upper gallery he and his clerks had used as a lexicographical workshop, to more modest digs, revealing how close to the edge financially Johnson was still living four years after publishing his greatest work.

WHEN FOCUSING ON THE *Dictionary* itself, Hitchings maintains the same balance between big picture and striking detail. Drawing on the best scholarship (by James Sledd, Gwin Kolb, Allen Reddick, Robert DeMaria, Anne McDermott, among others), Hitchings gives us an overview, in manageable installments, of Johnson's departure from prior models, the evolution of his lexicographical method, the timetable, the problems and false starts, the progress, the reception, the adaptations and applications it underwent, the influence then and over the centuries since. We get a sense of the *Dictionary*'s sheer mass: 42,773 entries supported by 110,000 illustrative quotations, its two huge folio volumes weighing some 20 pounds, its price of £4 10s as large as a working person's annual income and daunting to all but the most affluent individuals and institutions. We hear Hitchings lament that Boswell is unreliable (as he could also be on such topics as Johnson on women and slavery) in his account of how Johnson compiled the *Dictionary*. Hitchings wonders whether “Boswell was too callow, or maybe too lazy, to probe its real history.” More importantly, Hitchings gives an impressive account of the *Dictionary*'s historic importance: how it eclipsed all predecessors in scope and quality, how Johnson's use of illustrative quotations transformed dictionaries

forever, how his *Dictionary* held sway for more than 100 years in learned circles and in popular culture, how it was imitated and adapted by Noah Webster even as he criticized it, and how Johnson's influence pervaded even the “definitive” *Oxford English Dictionary*, which, first proposed in 1860, took 68 years and hundreds of contributors to finish. At intervals, Hitchings also gives us other angles of vision on the *Dictionary* as a whole, in terms of the different kinds of book it embodies: a history of English, a grammar guide, a literary anthology, an encyclopedia, a dictionary of quotations, a commonplace book, and in places, a book of devotions, a scientific reference book, even a jestbook.

But what finally makes Hitchings's volume fun to read are the clever examples he provides in every chapter. To demonstrate Johnson's improvements over prior dictionaries, Hitchings lists essential words such as “god,” “health,” “good,” and “soul” as typical of the kinds one predecessor didn't include at all, and contrasts another's vague definition of “flowers” (“the offspring of plants”) with Johnson's careful presentation of six distinct senses of the same word. To help us see the patterns in Johnson's selection of quotations, Hitchings notes both the 4,617 quotations from the Bible (two-thirds of them from the Old Testament) and the fact that, although he drew on more than 500 authors, Johnson refused to include even a single quotation from Thomas Hobbes, “because,” as Johnson told a friend, “I did not like his principles.” Hitchings gives us a glimpse of Johnson's underlying psychology by reporting that “More than 1 per cent of the *Dictionary*'s illustrative quotations refer explicitly to death, around 300 mention disease, and ‘melancholy’ and its cognates appear more than 150 times.” We learn about interesting readers and their responses. George Eliot probably named Casaubon, the dry pedant in *Middlemarch*, after an undistinguished etymologist she found buried in Johnson's *Dictionary*. Thomas Jefferson, who couldn't have liked Johnson for his political views on American independence, habitually rummaged in the *Dictionary* for good passages of literature. Many famous writers read the *Dictionary* and referred to it in their creative works, from Sterne and Austen to Melville and Dickens, though few ever read it cover to cover as Robert Browning did. Most surprisingly, modern American lawyers and judges still turn on occasion to Johnson's *Dictionary*: two of the cases cited by Hitchings are as recent as the year 2000.

THE STORY ISN'T ALL HERO WORSHIP. We get a chapter listing Johnson's mistakes, aptly entitled “Pastern” (for one of his most egregious errors, famously acknowledged with “Ignorance, Madam, sheer ignorance”) in which we hear how he botched words such as “shoe,” “soup,” “lunch,” and “rep-

tile,” and managed to omit altogether others such as “ultimatum,” “blond,” “virus,” and “anus.” In the chapter headed “Nicety,” the naughty and obscene words are discussed, both those terms that Johnson censored out (“buggery,” “vagina,” “shit,” “penis”) and those he allowed in (“bum,” “arse,” “fart,” “piss”). Hitchings includes a hilarious anecdote about Johnson's mistaken account of the position in which elephants copulate and the eccentric “expert” who provided him that tidbit. We also get a listing of the various usage labels with which Johnson stigmatized words he didn't entirely approve—“cant,” “low word,” “barbarism,” “colloquial,” “inelegant,” “corrupt,” “bad,” “unworthy of use”—as he, like so many before him and since, attempted to patrol the boundaries of “correct” English and “proper” usage.

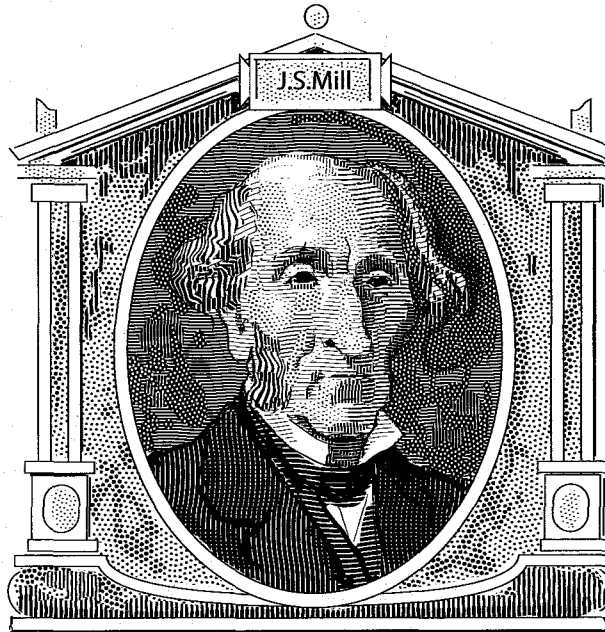
Perhaps inevitably, given the political preoccupations of cultural criticism today, Hitchings mentions at several points the imperialistic implications of Johnson's *Dictionary*, referring to it in the opening pages as “an instrument of cultural imperialism.” There is undoubtedly truth in this line of analysis. Even a mother forcing her toddler to use the correct words to refer to “cup” or “apple” is in a sense coercing a subordinate, relatively powerless person into a language system not of his or her own choosing, inescapably enrolling the child in an ideology and world view that (it always turns out) not everyone likes. But he might also have included some discussion of the ways that a dictionary such as Johnson's, which could extend standard usage across a geographically and socio-economically diverse population, might be inclusive and empowering to those who in one sense or another lived on the margins, or outside altogether. Mastering the “King's English,” much as one might flinch at the term today, could mean gaining access to the political, economic, and social strata from which one was previously barred. We must remember why slave-holding societies passed laws that made it illegal to teach slaves and free blacks to read, and why Malcolm X, during his transformative years in prison, devoted much of his time to improving his English by studying a dictionary.

But this is a small quibble beside Hitchings's marvelous book, which even specialists will find rewarding and the vast majority of “common readers” will enjoy on every page.

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WHEN LIBERALISM WAS YOUNG

John Stuart Mill: A Biography, by Nicholas Capaldi.
Cambridge University Press, 456 pages, \$40



LIBERALISM—THE MORAL AND POLITICAL theory of individual liberty, not the progressivist dogmas of the Democratic Party—is for us an established doctrine. Our fights over public policy take place on liberalism's moral premises and are governed by its political principles. Conservatives and progressives may disagree about which rights are fundamental and about what efforts government must undertake to protect its citizens, but few doubt that all citizens, regardless of religion, race, or sex, are equally endowed with fundamental rights. We can favor more or less government regulation of the economy, but we can't really question the market's indispensable role in economic life. We can dispute America's proper position in the world and its interest in and ability to promote liberty and democracy abroad, but at the end of the day most Americans are pretty well convinced that some form of liberal democracy is best suited to human needs and human dignity.

Actually, John Stuart Mill's value today is partly connected to the settled state of our convictions. Born in 1806 at a time of transition, he reached adulthood within living memory of the height of the Enlightenment, just after the peak of the Romantic reaction, in the midst of the rise of mass industrial society, and before democratic self-government included the majority of his fellow citizens. As a journalist and magazine editor, student of

ideas and cultural critic, and political reformer and member of Parliament, he sought to make England a more free and equal society. Because he had to wrestle with the liberalism we take for granted, his thinking provides us with background, objections, justifications, controversies, and alternatives that we have forgotten or never heard of. And because we live in a particularly angry age, in which too many members of both major parties think that the nation would be better off without the other, Nicholas Capaldi's intellectual biography of Mill is especially timely. Among its many virtues, Capaldi's book demonstrates the way Mill's thinking drew insight from competing perspectives, and makes vivid his reasons for believing that a nation devoted to individual freedom must welcome and remain hospitable to rival partisan principles.

Another merit of *John Stuart Mill: A Biography* is the way Capaldi, the Legendre-Soulé Distinguished Chair in Business Ethics at New Orleans's Loyola University, connects the extraordinary events of Mill's life to his extraordinary intellectual achievements. In understanding that life and how it influenced Mill's thought it is important to keep in mind, as the opening lines of this book state, that "the two most important facts about the life of John Stuart Mill were that he was the son of James Mill and that he fell in love with Harriet Hardy Taylor."

A SEVERE MAN WHO SOUGHT TO APPLY his rationalist and utilitarian principles to his son's education, James Mill famously began teaching Greek to John Stuart when he was three. He had his son reading Plato by age seven, major works of English history by age eight, Newton's *Principia Mathematica* by age 11, Adam Smith's political economy by age 14, and English classics and classical philosophy by 16. This arduous education, Capaldi shows, both provided the foundation of Mill's own philosophy of individual freedom, and precipitated the breakdown or spiritual crisis he suffered in his early 20s, from which he rescued himself, in significant measure, through the discovery of Romantic poetry and thought.

Mill's second defining experience began in 1830, when he fell in love with a married woman, the brilliant, beautiful, and vivacious Harriet Taylor. They soon became frequent companions and, during the two decades in which Harriet remained wed to her husband John Taylor, she and Mill went to heroic lengths to maintain the appearance of propriety. Mill and Harriet Taylor married in 1851, not quite two years after John Taylor's death. Mill's written tributes to his wife testify to his admiration, devotion, and profound feeling of indebtedness. His lifelong love affair with her awakened him to convention's capacity to oppress, as well as to the discipline, strength, and energy necessary to achieve romantic fulfillment.

Meanwhile, Mill learned about the capacity of convention to educate at the East India Company, where he began working after his father, chief examiner (the equivalent of a secretary of state) at India House, obtained an appointment for him one day after his 17th birthday. For the next 35 years, he served there, helping manage England's colonial operation in India, and eventually rising to the position of chief examiner. Perhaps no other great thinker devoted so large a portion of his career to political administration. Mill did not complain or express regret. To the contrary, in his *Autobiography* he insisted that from his administrative responsibilities he grew to appreciate the character of commercial and political life, and refined his ability to connect theory to practical affairs.

Although Mill's experience shaped him, it did not define him. Instead, as Capaldi shows by deftly weaving together the biographical with the intellectual, it provided the material and occasion for thought. And think Mill did: in the authoritative scholarly collection of his writings, his words fill 33 large volumes ranging across culture, economics, morality, politics, and religion.

THE FIRST BIG SHOWDOWN IN HIS thinking occurred when the rationalism bequeathed to him by his father clashed with the Romantic critique that had helped John Stuart recover from his breakdown. While editor of the *London and Westminster Review*, Mill published his own interconnected tributes to the utilitarian rationalist Jeremy Bentham and the conservative Romantic Samuel Taylor Coleridge in 1838 and 1840, respectively, after their deaths. To appreciate the audacity of his contention that the thought of both Bentham and Coleridge was essential for the well-educated person, try to imagine a contemporary left-of-center journal declaring that, say, both John Rawls and Allan Bloom, or Hannah Arendt and Leo Strauss, were indispensable thinkers of the age.

In fact, Mill's lengthy essays are serious and persuasive. Bentham's progressive rationalism, he argued, though blind to the intricacies of human affairs—indeed partly because of that blindness—was able to expose much nonsense in the common language used to discuss morals and politics, and to bring into focus inefficiencies and injustices in social and political life. At the same time, Coleridge's conservative Romanticism, though inadequate by itself to the task of understanding modern society—in part because it casually dismissed systematic empirical study—could concentrate on discerning the wisdom embodied in traditional practices, and on making vivid the social bonds on which political life depended.

On Liberty (1859), which he movingly dedicated to Harriet, who had died the previous year, is often thought to contain Mill's most extreme, one-sided defense of individual liberty. To sustain this judgment, as Capaldi's adroit analysis makes clear, it is necessary to isolate a few of Mill's most dramatic remarks about the strict limits on legitimate state interference with individual liberty. Attention to key features of *On Liberty's* extended argument yields a more balanced picture. These features include Mill's defense of liberty in terms of "the permanent interests of man as a progressive being"; his exposition of serious thought's duty to combine and reconcile competing opinions; his insistence that individuality is an achievement that depends on the discipline of great passion; his analysis of the social virtues without which a free society could not function; his subtle account of how government policy may legitimately discourage bad habits that it may not regulate directly; his discussion of education's importance to a free society and the division of responsibility for it between parents and the state; and his concluding observations about the role that civil society plays in encouraging habits of freedom and responsibility.

CAPALDI'S COMPREHENSIVE AND QUITE readable treatment throws into sharp relief Mill's consistent appreciation of the need to reconcile competing principles in other critical contexts. For example, in *Principles of Political Economy* (1848), he sought to give both the free market and government intervention their due. In *Considerations on Representative Government* (1861), he emphasized the need for both a party of order, which seeks to maintain the basic framework within which political life takes place and to conserve what society has achieved, and a party of progress, which tries to implement more fully the free society's promise of liberty and equality under law. In *The Subjection of Women* (1869), he made an impassioned case for the formal equality of women, while respecting differences between the sexes. And in his three *Essays on Religion* (1874), which Mill chose to have published posthumously, he searched for an expression of religious sensibility that respected the power as well as the limits of reason.

Mill's combining and reconciling is not always stable, much less satisfying. Overall, he may have overestimated reason's reach and underestimated modern freedom's self-subverting tendencies; but thoughtful readers will find in his writings considerable resources for the critique of reason's conceits and for the building of moral and political checks on freedom's excesses. Capaldi observes in conclusion that "the practical and intellectual conflicts he tried to resolve are still with us," and as this book as a whole demonstrates, Mill's ability to state those conflicts cogently makes his writings an enduring source of illumination.

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WHERE'S THE LOVE?

American Vertigo, by Bernard-Henri Lévy, translated by Charlotte Mandell.
Random House, 280 pages, \$27.95



Bernard-Henri Lévy

BERNARD-HENRI LÉVY'S ACCOUNT OF HIS attempt to repeat Tocqueville's American journey is not really a repetition. For one thing, Lévy doesn't know *Democracy in America* all that well, so he missed all sorts of obvious connections between Tocqueville's analysis and his own.

Besides, as Lévy admits, his image of America owes more to various "on the road" movies than to Tocqueville's weighty prose. And to the extent that Lévy's America is the product of reading, it owes more to another of our friendly critics from Europe, Leo Strauss, than to Tocqueville. This makes *American Vertigo* an odd sort of book: at once thoughtful, interesting, often instructive, but also diffuse and studded with self-indulgent and random moments.

These distractions are not without their charm, however. For instance, Lévy tells us, out of nowhere, that "I don't like the Atlanta airport. From the first glance I hated its endless underground passageways, its ghost trains that don't go anywhere, its escalators that plunge into hell." Well, that's poetry, to be sure, and as a Georgian, I both share the author's passion and can attest to his accuracy. But so what?

Lévy also proudly presents an insight into regional differences among American lap dancers. Las Vegas's "cloned dolls" are evidence of "[t]he wretchedness of eros in the land of the Puritans," whereas the "bolder and more cheerful" performers in French-formed New Orleans are "[a] bastion of licentiousness in a Puritan land." But our visitor is either too sublimely erotic—a Chauncy Gardener liking, above all, to watch—or in his own way too Puritanical actually to be lap-danced in either city.

Most American lives, of course, are not affected by lap dancing one way or the other; it's a marginal activity for pathetic tourists that reveals little to nothing about the state of our being. An astute observer might have noticed, instead, that the eminently successful revolt of American intellectuals and the mainstream media against all things "Puritanical" has exacted a real erotic cost. A genuine 17th-century Puritan man who caught a glimpse of a young woman's bare ankle might have had difficulty controlling himself. Today's licentious young men watch virtually naked and perfectly sculpted young women gyrate on MTV and yawn. And say what you will about the Puritans, they probably didn't share our burgeoning need for Viagra. Is it possible the Puritans understood something that we have forgotten? The sustained passionate arousal that distinguishes human eros requires that our animal desires be mixed with or enflamed by larger and more enduring social human purposes. To the extent that sex becomes merely safe or recreational, or disconnected from the human responsibilities connected with birth and death, there's not much to it at all. The Francophile Allan Bloom didn't blame the Puritans for ours being the least erotic time in human history.

THE TRUTH IS THAT SOPHISTICATED Frenchmen are probably no longer imaginative enough to be able to teach us much about eros. For instance, Lévy completely misses the fact that ordinary Americans—partly in counter-countercultural revolt against sophisticated assaults on the reality of love—are now not merely more Puritani-

cal but also more erotic than his own people. The French and the Europeans in general have become, to borrow Tocqueville's term, more *individualistic*—more apathetically locked up in their narrow post-religious, post-familial, and post-political lives—than we are. The "heart disease" that Tocqueville diagnosed as arising from the tendency of democratic societies to erode attachments to kin, neighbors, citizens, and God threatens France's future far more than America's. So far, the birth dearth is their problem, not ours.

When it comes to love, death, friendship, and God, therefore, the French (with a few honorable exceptions, such as Pierre Manent) no longer occupy a unique and helpful vantage point from which to survey American democracy. Yet Lévy wants to reprise Tocqueville's role as a friendly critic of America. His book has one crucial similarity to *Democracy in America*: Lévy and Tocqueville both want to be friendly critics of our country and to use their observations about the real if quite imperfect American reconciliation of democracy and liberty as a way of being implicitly quite critical of the France of their time. They both write, even more than it first seems, to correct the sophisticated French prejudice against America.

This leads to the most surprising and worthwhile elements of Lévy's book. Like Tocqueville, Lévy believes that he sees further and better than American and French partisans. And out there beyond partisanship, Lévy beholds the universal, rights-based rationalism of Enlightenment philosophy that he believes was Europe's great contribution to the world. Lévy's deepest devotion is thus not to France

but to a "Europe understood as a faith born, as Husserl wrote, from the ideal of reason and the spirit of philosophy." That faith, he argues, was reappropriated for Americans by Leo Strauss and his "neoconservative" disciples, as an antidote to later European relativism and nihilism, which still unfortunately dominates the Continent. Europe (especially France) and America are, or should be, united by a "supranational" "idea" or "creed" that links together the American Founding and the French Revolution. The "abstract" "liberating principle" at the core of the European Enlightenment is embodied by America's founders in the "fundamental Law" of our Declaration and our Constitution. We can't help being willing to listen to any European who reaches out to us on the basis of the political foundation we share in common.

LÉVY EXTENDS HIS HAND TO US EVEN further. In his telling, acceptance of our liberating principle compels nations and statesmen to choose the advance and protection of human rights over any other consideration. Lévy sees our common devotion to human—some might say "natural"—rights as a "left" movement that is perennially threatened from a fascist Right, which includes, for him, Communist and Nazi totalitarianism as well as Islamofascism. Given the recklessness of so many European intellectuals today, Lévy must receive high marks just for saying so clearly that Communism, Nazism, and Islamic radicalism are all extreme forms of evil that were and are worth fighting to the death to oppose. His republican France, whatever our two nations' cultural differences, would have been America's resolute ally from World War II through the Cold War and now the war against the jihadists (though not in Iraq!).

Another welcome republican note in *American Vertigo* is the positive picture that Lévy's Enlightenment rationalism leads him to paint of the beleaguered American neoconservatives. In fact, nothing about America seems to fascinate Lévy more than intra-neoconservative debates. He goes on at surprising length about the intellectual and strategic differences that separate Bill Kristol and Francis Fukuyama. Like most Europeans, Lévy overestimates the influence of neocons and Straussians on America's current foreign policy. But unlike his Continental colleagues, he regards that influence as mostly a good thing. He is "delighted when in the most powerful democracy in the world there finally appears a generation of intellectuals who arrive close to the top and can concretely work for the universalization of human rights and freedom." He boldly says that the American intellectuals come "from an ideological tradition less crippled than our own

by the weight of consent to earlier totalitarian systems." Having "fewer skeletons in their closet" when it comes to "indulging fascisms both Red and Brown," they are better situated to think clearly about the main fascist threat to human rights today. Bolder still, Lévy criticizes European intellectuals for not joining or at least applauding the neocons.

He is surely right that left-leaning Europeans should, for the sake of consistency if nothing else, support at least the goals of American neoconservatives. His judgment that the Iraq war is "morally right and politically wrong" is nuanced and not unreasonable, but it's not one that his fellow Europeans and especially his fellow Frenchmen often share. Lévy courageously suggests the reason they don't acknowledge the nobility—if not the prudence—of our cause: a toxic mixture of envy and moral and military weakness.

HIS INSIGHT FAILS HIM WHEN HE turns to a similar question regarding American politics: why are so many of our natural-rights rationalists on the Right, when it's so clear that the Left is the party of individual liberation? Struggling hard to find a smart and decent American Left, he ends up trying to make sense of the musings of the politically active actor Warren Beatty. This "anti-Schwarzenegger" accepts the Enlightenment and European "values of secularism, rationality, and human rights." Better still, while a man of peace, he does not hold to politically correct Hollywood pacifism but can distinguish between the necessity of the war in Afghanistan and the imprudence of the war in Iraq. Why, Lévy wonders, can't the neocons see what he sees in Beatty? Or even in John Kerry, who is also a "European at heart"—that is, "a rationalist above all"—although one who fatally underestimated the "irrational factors" that distort all political life.

Irrational factors, Lévy thinks, were responsible for the two shameful victories of the infantile conservative George W. Bush. The neocons played along with the irrational "crusade for moral values," Lévy speculates, in order to gain support for a universalistic, rationalistic foreign policy. But he contradicts that speculation by reluctantly admitting that Bill Kristol seems actually to agree with the Bush Administration's anti-Enlightenment positions on issues such as the death penalty, abortion, gay marriage, and "the place of religion in American politics." Lévy doesn't try to make sense out of Kristol's apparent perversity, because it so clearly, to him, makes no sense. Lévy criticizes Kristol's less than perfect devotion to the cause of the Enlightenment by admonishing him to read more Strauss!

But Lévy himself should also read more Strauss, who would (we can hope) persuade Lévy to pay more attention when he reads Tocqueville. Though Lévy does not see it, his rationalism is not Strauss's, much less Tocqueville's. Lévy puts his faith in a philosophy that, while avoiding the traps of nihilism and relativism, is nonetheless dogmatically atheistic. For Lévy, atheistic individualism is rationalism, and the only foundation for a non-repressive morality. That means that the erotic longings that lead us to personal connections with our spouses, children, friends, fellow citizens, and God Himself are illusions, and dangerous illusions at that. Lévy seems willing to surrender the future of the family, genuine friendship, the nation, and God Himself to what he regards as a consistent devotion to reason and rights. He highlights a key difference between American and French republicanism when he warns darkly of a religious Right that may be in the process of "definitively turning its back" on America's "European heritage." This more characteristically French and far less friendly line of criticism is responsible for the book's most significant weakness as a defense of human liberty.

LÉVY GOES ASTRAY WHEN HE PARTS COMPANY both with the American Straussians he so admires and Tocqueville's own strange liberalism. Tocqueville admired the Americans' Christian faith, even if he did not share it, and saw it as an indispensable source of moral guidance both for American families and for individuals capable of exercising their political liberty as citizens. Religion, for Tocqueville, above all embodied those truths about the human soul or human individuality most likely to be neglected in a democratic and materialistic time. Lévy sees American belief as mostly vulgar and morally repressive; he usually finds nothing true, good, or liberating about it. He graciously and ironically defends American religion by saying that it is not as dangerously stupid and pervasively oppressive as Europeans usually think. The challenge of "creationism" to the Enlightenment is, in principle, fundamental, but is undercut, Lévy explains, by the sheer banality of American evangelical women exercising to be "fit for Jesus." A real Christian, after all, would believe that Jesus loves fat girls, too.

Lévy reproaches our evangelicals for trying "to get rid of the distance, the transcendence, and the remoteness of the divine that is at the heart of European theologies." Their American God is "a good-guy God," "someone who loves you one by one," "a present God," "the friend that has your best interests at heart," "a God without mystery." There is something—maybe a lot—to Lévy's criticism of a certain American tendency to make God too "user friendly" at the

expense of mystery and transcendence. Surely Lévy isn't wrong to be repulsed by megachurches that look like banks. But his tirade goes much further: he objects to any understanding of the Creator as someone Who loves each of us in particular and provides authoritative moral guidance for our individual lives. The God of the Bible, after all, really is a "a present God" Who loves us "one by one."

Megachurch-going Americans who attempt to live consistently Christian lives are, in Lévy's view, contemporary subjects of the petty and schoolmarmish soft despotism that Tocqueville feared, people who have surrendered the trouble of thinking about and taking responsibility for their own futures. Disoriented rather than exhilarated by modern freedom, our evangelicals willingly succumb to the most ridiculous, meddlesome, and puritanical form of authority. But Tocqueville himself saw religion as providing Americans a point of view that inspires ennobling resistance to the peculiarly democratic forms of despotism—such as thoughtless and apathetic deference to the majority, fashionable public opinion, impersonal forces, and therapeutic experts.

Lévy notices both that evangelicals actually believe in and try to live according to the Word of the Biblical God, and also that they are in some ways co-opted by our dominant or bourgeois culture. Yet he reserves most of his disdain for what seems authentic and true about their faithful lives. That's because for Lévy (and, he thinks, for Europeans in general) "the divine" is for all practical and psychological purposes irrelevant. His God isn't even the hidden God without Whom, according to the Frenchman Pascal, we are miserable. Lévy rejects Pascal's God—the God of the Bible who haunted Tocqueville—as too personal; Lévy prefers the impersonal or inaccessible god of Aristotle or "the philosophers."

To Lévy's credit, his rationalistic and atheistic contempt for American religion is not consistent, because he doesn't always let his theory get in the way of what he can see with his own eyes. He makes the Tocquevillian observation

that American worshipers' beliefs concerning "sin and radical evil and the natural limits they impose on all nations" support political liberty and even reflect the truth about human liberty. He even mentions favorably a "Catholic teacher, a believer in home schooling, who wanted to snatch his children out from the steamroller of dominant thinking," that is, from the "nihilism" of "programmed stupefaction" that always endangers us in the high-tech world.

If Lévy would only think more about these countercultural and sometimes anti-imperial impulses of American religion, he would—following Tocqueville—connect our genuine belief to our patriotism and political responsibility, to our relatively high birth rate and healthy families, and to our willingness to take risks on behalf of our futures and our liberty. He might also have seen that orthodox and evangelical believers are in no danger of being seduced by fascism. The European fascists were the most rootless and alienated people in their societies, looking for some leader to make sense out of their pathetic lives. Fascists begin as individuals in the Tocquevillian sense—disconnected from country, class, community, and friends and family. But America's evangelical and orthodox believers are characteristically our country's least lonely and alienated people. They're the ones most likely to be happy with their spouses, children, friends, country, and church, and they're most likely to see the connection between their political liberty and their personal happiness.

LÉVY HIMSELF POINTS TO THE WAY OUT of the apparent impasse—to the way Americans have reconciled their religious faith with their political liberty. In the course of denouncing as irrational the evangelical suspicion of Darwinism, Lévy admits in passing that an intellectually respectable argument against the soullessness of evolutionism might arise from "natural theology." But he doesn't see what some Straussians do: the closest thing Americans have to a "civil theology" is the natural theology of our Declaration of Independence, which distinguishes clearly among

the animals, human beings, and the Creator. What distinguishes human beings, among other things, is our openness to the truth about the providential and judgmental Creator, Who is both the God of nature and the biblical God. Lévy could learn from our deepest friendly foreign critic, G. K. Chesterton, to take more seriously the truthful distinctiveness of the American "creed...set forth with dogmatic and even theological lucidity in the Declaration of Independence."

Our founding theology is a form of universalism and a form of creationism. Chesterton observed that because it is not really a civil theology but something higher and genuinely true for all human beings, our natural theology has made our nation a "home for the homeless" everywhere. Chesterton called America "a nation with the soul of a church." In our country, citizens can quite reasonably find themselves equally at home with their country's ennobling political creed and with their church's tenets, from which they learn that man's true home is somewhere else.

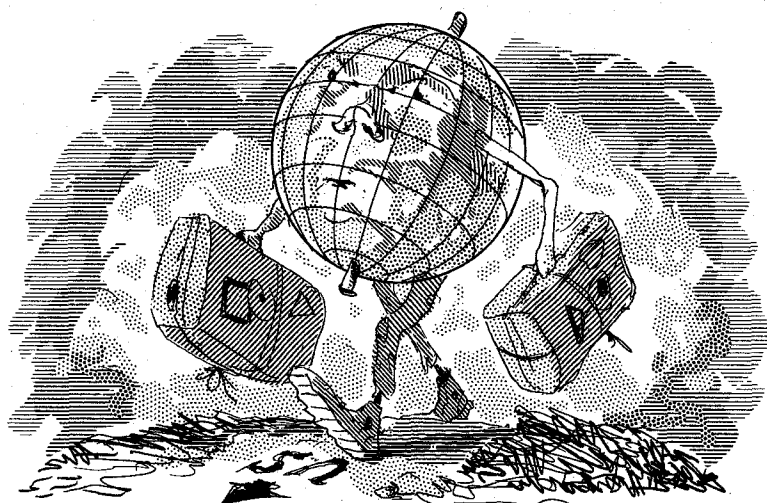
Any Frenchman concerned for his country's future should attend to Strauss's thought that the tension between reason and revelation is the secret to the West's vitality. The American Founding's affirmation (no doubt owing to some Puritan influence) of the truth that man is the creature open to his duties to the Creator is our way of perpetuating that tension. The extreme Enlightenment's efforts—the ones that animated the French but not the American Revolution—to resolve that tension by making us totally at home in this world have been, on balance, disastrous for both human rights and philosophy, not to mention the human soul. It is because Americans are so at home with our homelessness that we resist so well the various totalitarian and other self-destructive temptations of the "enlightened," technological world.

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Book Review by Edward J. Erler

HEDGING ALLEGIANCE

True Faith and Allegiance: Immigration and American Civic Nationalism, by Noah Pickus.
Princeton University Press, 280 pages, \$35



TWENTY YEARS AGO, THE IMMIGRATION Reform and Control Act (IRCA) was hailed by its supporters as the final resolution of the illegal immigration problem. It gave a "one-time only" amnesty to nearly 3 million illegal aliens living in the United States, promised increased border security, and enacted criminal penalties on employers who knowingly hired illegals. In the end, the enforcement provisions were never taken seriously and the amnesty provisions, as many predicted, gave a new incentive to illegal immigration, fueling the hope (perhaps even the expectation) that amnesty was merely the precursor to a series of ever more generous offers.

Today, the United States is mired in a deeply divisive debate about immigration, again brought on by the intractable problem of illegal immigration. The fact that there are more than 11 million illegal aliens currently in the U.S. is clear evidence of IRCA's failure—or perhaps its success! After all, immigration policy is mostly an inside-the-Beltway affair, where constituencies seeking to boost immigration—including illegal immigration—abound. Immigrant rights groups, business interests, labor unions, and various ethnic advocacy groups all have a stake in the debate, hoping to magnify and extend the reach of their power by increasing immigration at all costs. Indeed, the administrative state itself has an interest in increasing immigration, especially from the Third World and other undeveloped nations. These immigrants, legal and illegal, often become malleable clients of the welfare state.

Semantics aside, the Bush Administration wants amnesty to be the centerpiece of any new immigration bill. The president believes that illegals are only seeking to improve their lives, and so he has called for greater "compassion for our neighbors to the south" because "family values do not stop at the border." By becoming a more "welcoming" society, he claims, we will become a "more decent" people. Of course, any new proposal will contain provisions to strengthen border security and impose sanctions against recalcitrant employers. The IRCA had similar provisions; and amnesty is certain to set off another wave of illegal immigration. Even the prospect of amnesty has already produced a new surge of border-crossers.

One important aspect of immigration policy that is conspicuously absent from the current debate is whether immigrants should be expected to adapt to an American way of life, including exclusive allegiance to the Constitution and its principles. Liberal opinion, of course, maintains that the idea of sovereignty is anachronistic in an increasingly globalized world; human dignity inheres in the individual, and should not require the mediation of the nation-state. In fact, multiculturalism, we are told, is a necessary consequence of the respect for human dignity, and any demands made on behalf of the nation-state for exclusive allegiance or for assimilation are contrary to respect for "universal personhood." By this logic, liberal democracy's worldwide advance will soon render citizenship, itself, superfluous.

WITH HIS NEW BOOK, *TRUE FAITH and Allegiance*, Noah Pickus has undertaken an ambitious and altogether praiseworthy project that attempts to articulate a coherent ground for both citizenship and assimilation in a world characterized by "competing subnational and transnational forces." The Associate Director of Duke University's Kenan Institute for Ethics, Pickus characterizes "the essence" of his book as a "difficult dialectic between maintaining the bonds of nationhood and allowing them to be flexible enough to include newcomers." This dialectic, he believes, yields a moderate middle ground—neither "too assertive nor too timid"—that places as many demands on citizens as it does on immigrants. Immigrants must make an effort to learn English and become acquainted with civic principles and American culture; and for their part, citizens must facilitate and encourage the assimilation of immigrants into the community through a combination of government programs and voluntary citizen-group activities.

Pickus sees "perennial tensions" between "civic ideals" and "national belonging." His prescription for overcoming these tensions is to advocate what he calls a "contemporary civic nationalism" that "emphasizes the need to account for actual practice in spurring attachment and engagement, rather than relying only on core values, universal rights, cultural cohesion, or racial identity." This "supple and versatile" nationalism "seeks to bridge the gap between immigrants' needs and interests...and the values,

rituals and practices of American life." It recognizes the claims to legitimacy advanced both by "principles and peoplehood." Pickus argues, in short, that civic principles alone—those political principles derived from the Declaration of Independence and embodied in the Constitution—are not sufficient to inspire the sense of belonging that is essential to "peoplehood." Such community requires "an emotional or organic bond" that abstract ideals and principles cannot satisfy.

NATIONALISM IS STILL NECESSARY FOR Pickus, and "as a practical matter, the nation-state remains the primary vehicle for protecting rights and practicing democracy." But American immigration policy should not be driven by the kind of "illiberal nationalism" that pursues "discriminatory and divisive" measures like California's Proposition 187. Nor should America adopt policies that are "contradictory, such as increased border enforcement coupled with provisions for new amnesties for illegal aliens," or simply hypocritical, such as attempts to limit health care for illegal aliens given "the economy's heavy dependence" on cheap, unskilled labor.

Pickus is correct about the core problem now facing America, a problem that was not caused by America's immigration policies but certainly has been exacerbated by them. "Today," he argues, "Americans face the difficult task of sustaining a civic nation in the absence of a dominant culture, ethnic identity, or consensus on the meaning of constitutional values." In fact, according to Pickus, "Americans have never agreed on the meaning of their core principles." What, then, can we ask immigrants to assimilate to? If we cannot agree among ourselves, what kinds of demands can we make upon them? The lack of agreement suggests to Pickus that a "holistic model of citizenship" is the most realistic way forward. This newfangled citizenship, drawing on both sides of the current debate, upholds "broader cosmopolitan commitments" that would help "engage citizens in negotiating multiple identities and institutional relations," but at the same time it emphasizes "a sense of attachment to a broader whole that integrates those commitments."

In fact, Pickus claims that this was the vision of some of the founders, most notably James Madison and John Marshall, as well as of some of Progressivism's leading lights, like Theodore Roosevelt and social critic Randolph Bourne. Pickus's proof that Madison and Marshall adhered to this brand of civic nationalism is, however, tenuous. Leave aside, for the moment, their particular views on the Alien and Sedition Acts, which the book discusses at length. The larger point is that neither Mad-

son, nor Marshall, nor any other American founder perceived the conflict between civic principles and the requirements of community that Pickus does.

The Progressives, on the other hand, did see such a conflict. They saw the static, outmoded principles of the founding as an unnecessary brake on the Darwinian evolution of human dignity. Under the Progressives, the Constitution became a "living document," its principles constantly in need of revision. Although Pickus wants to split the difference between the founding principles and Progressivism, he eventually sides with the latter, writing that "there is no single balance between principles and peoplehood that is good for all time. Instead, policies and institutions must be modified and adapted to meet contemporary challenges."

It is true that there were debates among the founding generation about policies regarding citizenship and immigration and that these debates were complicated by the presence of slavery. But there was also enough principled agreement among the founders that Thomas Jefferson could speak of the Declaration of Independence as an expression of the "American mind." If we believe that those principles are no longer applicable to our present circumstances—as Pickus sometimes seems to suggest—then maybe we should discard them. But if we believe that those principles are still viable, don't we have an obligation to restore them to the extent possible?

For Abraham Lincoln, it was a shared sense of constitutional principles that ultimately provided the genuine basis for American citizenship. These principles formed an "electric cord" that united Americans and incorporated immigrants into "blood of the blood, and flesh of the flesh of the men who wrote that Declaration." The principles themselves did not have to change to stimulate emotional or patriotic attachment to them, much less to accommodate "multiple identities." In Lincoln's view, multiple identities became one identity—an American identity—by reverent allegiance to the principles that animate our common political life. Perhaps the recovery of the founding principles will prove difficult—even impossible. But talk of cosmopolitan citizenship as if it were the only alternative where there is no "consensus on constitutional values" jeopardizes what is best about American citizenship.

Pickus argues that the framers relied on contradictory principles as the ground of citizenship: they tried to combine consent with the common-law notion of birthright citizenship. But here this otherwise careful and dispassionate scholar is mistaken. The Declaration clearly makes consent the ground of citizenship and

this was explicitly incorporated into the 14th Amendment. Birthright citizenship, as Blackstone explains, is a feudal doctrine, the ground of subjectship, not citizenship; it requires perpetual allegiance. This feudal legacy was repealed by the Declaration of Independence as Americans threw off their perpetual allegiance to the crown.

Furthermore, our tolerance of dual citizenship debases and degrades the idea of citizenship altogether. Jacob Howard, the author of the 14th Amendment's citizenship clause, implied that American citizenship required "exclusive allegiance." A pledge of exclusive allegiance is still required in the oath of citizenship, although the State Department now permits dual citizenship. Eighty-five percent of all immigrants arriving in America come from countries that allow—indeed encourage—dual citizenship. We have the absurd situation in which a newly naturalized citizen can swear exclusive allegiance to the United States but retain his allegiance to a vicious despotism or a theocratic tyranny.

PICKUS SEES DANGERS IN ALLOWING multiple citizenship—"fragmentation and alienation"—but he alleges that there are benefits, too. A prudent approach to multiple citizenship, he claims, "supports individuals' commitments to multiple polities and peoples, thus enlarging communal identity in the wake of economic and political globalization." Multiple citizenship also facilitates "the spread of transnational communities of descent, diasporic communities whose members have sought to strengthen democratic arrangements in their home countries." In his view we must face the fact that multiple citizenship seems to be the wave of the future and prudent accommodations are necessary. But in that case, of course, it would no longer be possible to speak of exclusive allegiance, let alone the "true faith and allegiance" of his book's title.

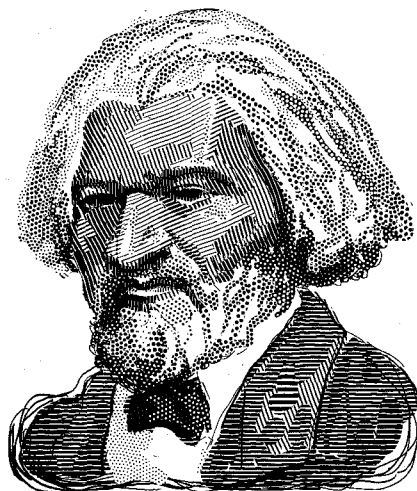
Although Pickus clearly recognizes these difficulties, his prescriptions are driven by the constant attempt to seek a middle ground where none exists. In a system of multiple allegiances, no one would have any allegiance properly so called. His effort, ingenious and undoubtedly well-intentioned, to combine the American Founders and the Progressives is similarly unpersuasive. Swearing "true faith and allegiance" to a regime that is continually under construction and informed by progressively evolving principles would be strangely hollow, to say the least.

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Book Review by Peter C. Myers

AN AMERICAN HERO

Frederick Douglass and the Fourth of July, by James A. Colaiaco.
Palgrave MacMillan, 256 pages, \$24.95



Frederick Douglass

IT WAS CALLED THE PECULIAR INSTITUTION, partly because in a nation dedicated to the proposition that all men are created equal, slavery stood out as a contradiction and a dilemma. But by the middle of the 19th century, powerful politicians like Senator Stephen A. Douglas and Chief Justice Roger Taney were defining this fateful deviancy down, to the status of a peculiar variant of majority rule. According to their view of the Declaration of Independence and the Constitution, racial slavery and white supremacy were themselves founding principles, not temporary exceptions to those principles necessitated by the implacable realities of 1776 and 1787.

Many abolitionists shared this belief that America was constituted to allow for the unapologetic perpetuation of slavery. William Lloyd Garrison called the Constitution a "covenant with death and an agreement with Hell." Garrison's words echo in our own time, modern progressives having intensified their disdain for the founding by the multiculturalist belief that America is pervasively racist. For too many of today's schoolchildren, the primary lesson about George Washington is that he owned slaves.

In *Frederick Douglass and the Fourth of July*, James A. Colaiaco pushes back against this common view, siding with those who view slavery as the tragic flaw that haunts our country rather than the original sin that defines it. His book is an intellectual and oratorical biography, examining the famous black agitator's political thought by analyzing Douglass's major

speeches from the decade preceding the Civil War. His point of departure is the oration Douglass gave on July 5, 1852, "What, To the Slave, Is the Fourth of July?" Colaiaco, who teaches Great Books at New York University, argues that this speech was a crucial event in American history—the greatest of all abolitionist speeches.

To substantiate that judgment, Colaiaco elaborates on the ceremonial, judicial, and political qualities of Douglass's speech. It was conventionally ceremonial in its expressions of genuine admiration for the revolutionary and Founding Fathers and in its forceful linkage of the Declaration with the Constitution. It was also judicial, moving briskly from celebrating America's origin to condemning its present. Meaning to shame and provoke his audience, Douglass confronted them as representatives of a nation of Pharaohs sprung from Hebrews. He denounced American (not merely Southern) slavery as an unparalleled violation of human rights.

Finally, the speech was political. Having converted to constitutional abolitionism the previous year, Douglass defended the Constitution before his audience as "a glorious liberty document," going so far as to "defy the presentation of a single pro-slavery clause in it." His radical conclusion, elaborated in editorials and speeches before and after his Fourth of July oration, was that the Constitution licensed and mandated direct federal action to effect slavery's immediate abolition everywhere in the United States.

COLAIACO SHOWS HOW DOUGLASS BECAME, after 1852, both more conservative and more radical in response to the Kansas-Nebraska Act, the *Dred Scott* ruling, and John Brown's raid on Harper's Ferry. In one respect, Douglass's break with Garrison signified his embrace of constitutional reform rather than revolution. His former mentor's position "expressed no intelligible principle of action," whereas a program guided by the Constitution held the promise of real impact. On the other hand, as Douglass embraced the Constitution and rejected Garrison, he became more militant. Throughout the 1850s, he became increasingly convinced of the need for righteous violence. "The only penetrable point of a tyrant is the fear of death," he remarked in June 1860. Whereas Thomas Jefferson had trembled at the thought that a just, vengeful God could not sleep forever, Douglass positively rejoiced in the hope that the day of reckoning was at hand.

Colaiaco directs attention away from racial identity, the focus of much recent scholarship on his subject, and back to Douglass's primary concern with understanding and advancing the principles of natural justice and liberal republicanism in America. The book's most interesting and provocative sections relate Douglass's arguments to alternatives that shared his commitment to natural rights but differed about how to secure them. Most important were differences in constitutional interpretation. Characteristically, Douglass adopted a radical position, according to which: 1) no public enactment contrary to fundamental principles of justice could

possess the binding authority of law; and 2) the key to understanding the Constitution was its text alone, especially its Preamble dedicated to high moral objects and its pointed refusal to grant explicit recognition to slavery.

Colaiaco provides the most complete exposition yet of Douglass's constitutional abolitionism. But the author carries to an extreme his enthusiasm for the "strict-text" interpretive approach that Douglass employed. Identifying originalism with its grossly defective applications by Garrison and the Taney Court, Colaiaco gives too little attention to Douglass's sketch of a challenging originalist argument. Colaiaco's rejection of originalism leads him to associate Douglass with later proponents of the "living Constitution," failing to note that this approach rests on principles contrary to those that Douglass shared with the founders. Most concretely, Colaiaco seems to accept Douglass's radical claim of a constitutionally delegated federal power to abolish slavery directly, instantly, everywhere in the country—a reading unendorsed by anyone who signed or ratified the Constitution and one whose implementation would surely have provoked immediate civil war.

Colaiaco's treatment of the relation between Douglass and Abraham Lincoln is also one-sided, giving Douglass the benefit of the doubt in all their disagreements. Douglass was often a severe critic of Lincoln's relative moderation on slavery issues, from Lincoln's (grudging) support of the 1850 Fugitive Slave Law to his seeming insistence, prior to mid-1862, on a merely restorationist war. Even in 1876, in his speech dedicating the Freedmen's Monument to Lincoln, Douglass saw fit to repeat his pre-Emancipation view of the martyred Emancipator. Alongside it, he developed and endorsed a contrary assessment, "taking [Lincoln] for all in

all," and Colaiaco does fairly summarize both views. Nonetheless, he approvingly quotes Douglass scholar Eric Sundquist, opining that compared to Lincoln, Douglass was "the truer son" of America's revolutionary fathers. Whereas a bold and prophetic "Douglass had taken the lead on the problem of slavery," a more cautious and passive "Lincoln had merely followed."

But contrary to Colaiaco's repeated claim, Lincoln's prewar antislavery policy was not grounded in a passive hope that slavery, once confined, would eventually die a "natural death." For Lincoln, slavery was to die by the hand of an active, antislavery statesmanship. It was to die by suffocation, forcibly confined in the atmosphere of condemnatory opinion in which he, Douglass, and others were laboring to envelop it. Further, Lincoln was scarcely less prophetic than Douglass in seeing the need for an abolitionist (not merely restorationist) war. Unlike Douglass, however, he saw that a premature declaration of an abolitionist war was likely to make victory impossible in a contest that would be supremely difficult under any circumstances.

MAINLY FOR THE BETTER, *FREDERICK Douglass and the Fourth of July* reflects the spirit of its subject and his age. Frederick Douglass deliberately styled himself a hero, in a period of our history distinctive in its celebration of heroes—a period of Romantic reaction against a spiritually flattening democracy, but also a period in which blacks' capacity for heroism was commonly denied. In this book, in keeping with his own self-presentations, Douglass shines forth as America's "gadfly"; he was "quintessentially the voice of black America"; he "stood like a titan among his contemporaries"; he was "majestic" in his wrath; and so forth. Present-day students of Douglass

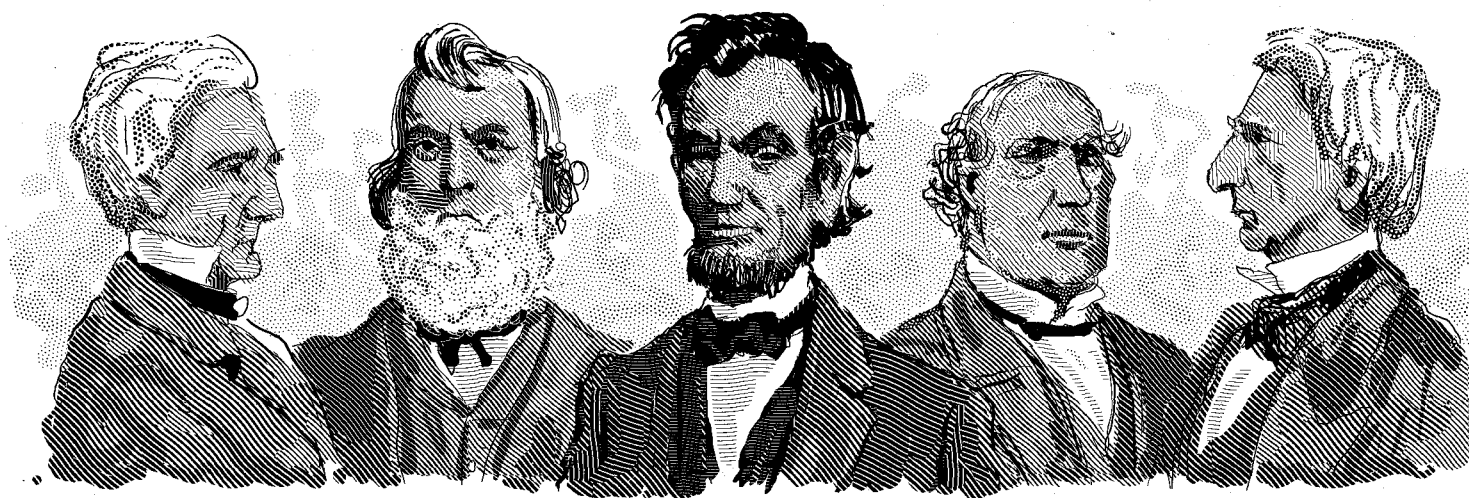
and of the period will likely judge, with justice, that the book inclines toward old-fashioned hero-worship. One searches in vain for mention of a significant shortcoming in Douglass's public arguments and actions. But this is a pardonable fault in a work clearly meant to be inspirational as well as expository. In our own intellectual context, in which powerful egalitarian and postmodern currents move scholars to deflate heroes—or to conflate the heroic with the merely transgressive—Colaiaco's frank recognition of his subject's genuine nobility is refreshing.

In the end, though Colaiaco fails to establish Douglass as the truest son of the American revolutionary fathers, he succeeds admirably in showing how Douglass is properly paired and partnered with Lincoln: the Great Agitator and the Great Emancipator, post-founding America's two greatest defenders and renovators of the indispensable principles of natural rights liberalism. More particularly, at a moment in our history when the malady of alienation from America's moral and civil life has reached crisis proportions among young black males, *Frederick Douglass and the Fourth of July* performs a vital service in reviving the moral spirit of America's greatest exemplar of black manhood. Douglass distinguished himself most profoundly from other intellectually formidable black leaders of his day, and beyond, by his unconquerable hopefulness, together with his self-overcoming love for his country and the principles to which it is dedicated.

Peter C. Myers is professor of political science at the University of Wisconsin, Eau Claire, and author of *Our Only Star and Compass: Locke and the Struggle for Political Rationality* (Rowman & Littlefield). He is currently working on a full-length study of the political thought of Frederick Douglass.

MAGNANIMOUS HISTORY

Team of Rivals: The Political Genius of Abraham Lincoln, by Doris Kearns Goodwin.
Simon & Schuster, 944 pages, \$35



Simon Cameron

Edward Bates

Abraham Lincoln

Salmon Chase

William Seward

IT IS WITH GREAT TREPIDATION THAT ONE opens the pages of a new biography of Abraham Lincoln. How can an ambitious author find something novel to say? One could develop a revolutionary thesis, overturning the established wisdom or revealing some heretofore suppressed truth. Lincoln was racist. Lincoln was gay. Lincoln was a tyrant. Or if one is less ambitious, it might be enough to suggest that Lincoln was a man controlled by events, a compromiser, a politician, or a Republican. Fortunately, Doris Kearns Goodwin's *Team of Rivals* takes a different approach. Risking the calumny of critics who might complain that she has given us nothing new, she paints an unabashedly respectful and heroic portrait of Lincoln.

Goodwin, however, is not altogether lacking in ambition. She believes there is something more to be said about him, something new that can be learned through an examination of his relationships with William H. Seward, Salmon P. Chase, and Edward Bates, his rivals for the 1860 Republican presidential nomination and later members of his cabinet:

Just as a hologram is created through the interference of light from separate sources, so the lives and impressions of those who companioned Lincoln give us a clearer and more dimensional picture of the president himself. Lincoln's barren childhood, his lack of schooling,

his relationships with male friends, his complicated marriage, the nature of his ambition, and his ruminations about death can be analyzed more clearly when he is placed side by side with his three contemporaries.

Goodwin's portrayal of these men is balanced and compelling. She notes that all four "studied law, became distinguished orators, entered politics, and opposed the spread of slavery." But Lincoln defeated his rivals and became their leader, not, as some historians suggest, by chance (i.e., because "he came from the battleground state of Illinois and stood in the center of the party"), but "because he was the shrewdest and canniest of them all."

For one thing, his impoverished upbringing meant that he was "[m]ore accustomed to relying upon himself to shape events." As the nomination process heated up, Seward vacationed in Europe, Chase calculated his prospects on the basis of the flattery of friends, and Bates waited at home hoping the convention would turn to him as a more moderate alternative to Chase and Seward. In contrast, Lincoln developed a strategy and worked tirelessly to implement it. Lincoln *earned* the nomination. We also see the different forms ambition can take, as well as the way in which ambition is shaped by other virtues and vices. Her depiction of Chase's coolness and lack of humor, Seward's confidence and charm, and Bates's love of his wife and fam-

ily help us to better understand the characters that would play such major roles in Lincoln's presidency.

BUT MOST IMPORTANTLY, THESE PARALLEL portraits develop a more complex picture of Lincoln himself. As Goodwin describes Chase's talent for detached calculation and sense of destiny, Seward's adaptability and sociability, and Bates's care and patience, she reveals, as if in relief, the different dimensions of Lincoln's character. For instance, she shows us how much brighter the flame of ambition burned in Lincoln than in the others. Bates's ambition had been difficult to ignite, and compared to Chase and Seward, he accepted defeat with little bitterness. Chase's ambition, by contrast, was blinding, both to himself and his supporters. He was too selfish to take into account the interests and ideas of others, even though he craved their good opinion, and he often sought to highlight his own virtue by diminishing everyone else's. Only in Seward do we see even a pale reflection of Lincoln's ambition. But prior to 1860, Seward's self-confidence may have thwarted his ambition. Life had given him much, and thus there was less for which to strive. He was accustomed to the idea that his goals were always within his grasp. In contrast, Lincoln's ambition was fueled by both the difficult road he had traveled to success and his ability to see beyond what he could grasp at any moment.

THE FIRST HALF OF GOODWIN'S BOOK, titled "The Rivals," culminates in Lincoln's 1860 electoral victory. Her account of his political strategy prior to the election is one of the best available. It has the feel of a story from a talented reporter who traveled with the candidate and enjoyed his confidence, and what's more, a reporter willing to consider the possibility that the candidate knew what he was doing. This is not a bad model for history.

The reader would expect the rest of *Team of Rivals* to focus on the team, which to some extent it does. Goodwin shows that Lincoln's presidency was a collaborative effort. To succeed, he needed his former rivals' assistance—partly to diffuse political conflicts, and partly because of their peculiar talents. Seward was a diplomatic Secretary of State, Chase a shrewd financier at Treasury, and Bates a loyal and trustworthy Attorney General. The second half's title, however, is not "The Team" but "Master Among Men." This is appropriate; the rivals are no longer equals. Goodwin exhibits their growing appreciation of Lincoln's genius, as well as Lincoln's ability to use their virtues and vices to good ends. But her portraits of these men diminish in integrity and fullness as the book proceeds. Their lives and actions increasingly have meaning only as they relate to Lincoln's project. We tend to lose sight of their own perspectives, whether on themselves or America.

Part of the problem is that the cast of characters expands dramatically. In addition to Seward, Chase, and Bates, Edwin Stanton at the War Department, Gideon Welles as Secretary of the Navy, and Postmaster General Montgomery Blair play major roles. There are also the generals, Lincoln's assistants John Nicolay and John Hay, and various members of Congress who dominate certain scenes of the story. In the end, however, it is not these characters who overshadow Seward, Chase, and Bates, but Lincoln.

Seward is the quickest to grasp and accept this fact. He is wise enough to recognize Lincoln's greatness once face-to-face with it, and confident enough to accept his subordinate place. He ultimately finds that his own ambition can be satisfied in service to Lincoln's. Perhaps this is why he is the only one of Lincoln's rivals to grow in stature once a member of the cabinet. Bates remains what he always was, a decent man who served the public but whose life was never consumed by politics. He was there when Lincoln needed him to play his part, but we are not surprised that he is often offstage.

Chase is the most diminished by association with Lincoln. On some level, he comes to recognize Lincoln's greatness but is never able to overcome his envy of it or his own lack of

self-awareness. Even when Goodwin extols his virtues as Secretary of the Treasury, she cannot overcome our distaste for his smallness of soul. As we watch the "master of men" use Chase's vanity in the service of a higher cause, it's hard not to take perverse pleasure in Chase's pain.

IN THE COURSE OF HER BOOK, GOODWIN does a nice job of debunking many of Lincoln's debunkers. She dismisses claims of a homosexual relationship between Joshua Speed and Lincoln, reminding the reader that close male friendships, expressions of affection, and even bed-sharing were common in the 19th century. She says the assumption that such relationships must have been sexual tells us more about our own time than Lincoln's. She gives a full and fair account of Lincoln's attitudes on race. Although she observes that "racism, the belief in white supremacy, was deeply embedded in the entire country," she scrupulously avoids sensationalizing Lincoln's views. Though he initially advocated colonization as the best solution to the problem of what to do with freed blacks, he never supported forced deportation. He grappled with a difficult question: if not colonization, then what? Goodwin gives us his answer:

Free them all, and keep them among us as underlings? Is it quite certain that this betters their condition? But once freed, could they be made politically and socially, our equals? My own feelings will not admit of this; and if mine would, we well know that those of the great mass of white people will not. Whether this feeling accords with justice and sound judgment, is not the sole question.... A universal feeling, whether well or ill-founded, can not be safely disregarded.

Frederick Douglass explained later that Lincoln, as a statesman, was bound to consult the feelings of his countrymen. Had he not done so, and had he not in some sense shared those feelings, he would have failed as a leader.

But Goodwin also points out that there may have been a difference between his feelings and his sense of justice: "It is instructive, political philosopher Harry Jaffa perceptively notes, that the only unequivocal statement of white supremacy Lincoln ever made was as to 'color'—the assertion of an obvious difference." Lincoln could not deny this obvious difference, nor the feelings it might engender, but he also knew that from the standpoint of justice, what followed from that difference was insignificant. It is even possible that his sense of justice may have triumphed over his feelings. After meeting with Lincoln, Douglass reported:

He treated me as a man. He did not let me feel for a moment that there was any difference in the color of our skin. The President is a most remarkable man. I am satisfied now that he is doing all that circumstances will permit him to do.

What Douglass saw in Lincoln was not racism, but prudence.

IN THE END, THE MOST SIGNIFICANT CONTRIBUTION of Goodwin's history is not her depiction of Lincoln's cabinet, or his prudence, sense of justice, or mastery of men. It is his magnanimity, a virtue so manifest in Lincoln that even Chase's shriveled soul was moved by it. Throughout Lincoln's first term, Chase plotted against him, criticized him behind his back, and sought to wrest the 1864 nomination away from him while serving in his cabinet. Chase twice offered his resignation in an attempt to manipulate Lincoln, and yet Lincoln kept him in his cabinet until 1864, until a dispute over the appointment of an assistant treasurer for New York finally persuaded Lincoln that Chase had to go. But a few months later, Lincoln forgave Chase's treachery and nominated him as Chief Justice of the Supreme Court.

Goodwin reports that when Lincoln announced his intentions to a friend of Chase's, the friend replied:

Mr. President, this is an exhibition of magnanimity and patriotism that could hardly be expected of any one. After what he has said against your administration, which has undoubtedly been reported to you, it was hardly to be expected that you would bestow the most important office within your gift on such a man.

Of course, this display required some effort; Lincoln admitted that he "would rather have swallowed his buckhorn chair than to have nominated Chase." But he thought it was the right decision for the country and that Chase deserved it. It is impossible to imagine that Chase would have been equally large-souled if the situation had been reversed.

The Chase nomination is only one of the many examples of Lincoln's magnanimity offered by Goodwin. Other politicians might have seen the prudence of bringing rivals into the cabinet. Others might have been able to set aside personal animosity to do the prudent thing. But Lincoln's greatness of soul was such that he embraced his rivals. He was able to recognize their virtues, and this ability often transformed disagreement into respect, leading many who served under him to become their better selves. Upon learning of

his nomination to head the Court, Chase immediately wrote the president: "I cannot sleep before I thank [you] for this mark of your confidence.... Be assured that I prize your confidence and good will more than nomination or office." At least on some level, Chase probably was being sincere.

IT SHOULD BE SAID THAT IF YOU COME TO Goodwin looking for a philosophical analysis of Lincoln's genius, you'll be disappointed. Harry Jaffa's *Crisis of the House Divided* or the sequel, *A New Birth of Freedom*, are more satisfying in this respect. Yet her book isn't at odds with Lincoln's political thought; she shows his philosophy as it manifests itself in his relationships with other smart and ambitious men.

Seward, the most impressive of those men, was seriously wounded by one of the conspirators in Lincoln's assassination. Near the end of the book, Goodwin reports:

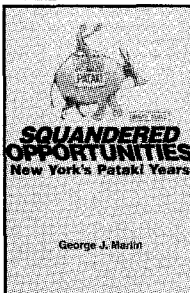
News of Lincoln's death was withheld from Seward. The doctors feared that he could not sustain the shock. On Easter Sunday, however, as he looked out the window toward Lafayette Park, he noticed the War Department flag at half-mast. 'He gazed awhile,' Noah Brooks reported, 'then, turning to his attendant,' he announced, 'The President is dead.' The attendant tried to deny it, but Seward knew with grim certainty. 'If he had been alive he would have been the first to call on me,' he said, 'but he has not been here, nor has he sent to know how I am, and there's the flag at halfmast.'

Seward knew that Lincoln was his friend, and that his friend would not have deserted him.

The scene's sadness is intensified by the stories Goodwin tells of the easy pleasure Lincoln and Seward took in each others' company. Lincoln's frequent evening visits to Seward's home, their trips to the theater, their shared jokes—these were not merely a means of escape for Lincoln, but signs of his enjoyment of life. Goodwin argues that the traditional image of a melancholy and lonely Lincoln is simplistic. Neither his genius nor the tragedy he endured alienated him from his humanity. This insight alone makes her book a worthy contribution to the study of Lincoln. *Team of Rivals* is also a wise and generous gift to those readers who doubt that great ambition can be compatible with the pleasures offered by the company of a familiar friend.

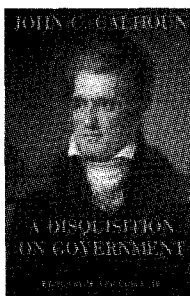
David K. Nichols is associate professor of political science at Baylor University.

This Fall at ST. AUGUSTINE'S PRESS



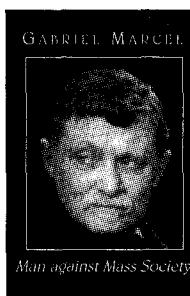
In this first commentary on the Pataki administration, George Marlin, former Executive Director of the Port Authority of New York and New Jersey and New York Conservative Party activist, traces how fiscally, economically, and culturally Governor Pataki sold out to leftist interests. He contends that the Pataki Administration did not possess a philosophical compass. Political expediency overwhelmed any political philosophy, and "political conscience" and "political ideals" were mere slogans used to patronize conservatives.

1-58731-804-0, 300 pages, cloth, \$35.00, October



The most economical and textually accurate version of Calhoun's *Disquisition* available today. As a treatise, the *Disquisition* is one of the greatest and most enduring works of American political thought, and a text of seminal importance to all students of American politics, history, philosophy, and law. In the *Disquisition*, Calhoun believed he had laid a "solid foundation for political science" through revitalizing popular rule, and attempted to explain the best example of the diffusion of authority and cultivation of liberty: the American Constitution.

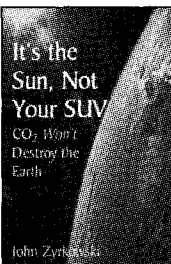
1-58731-185-2, 96 pages, paper, \$8.00, September



The central theme of this important book is that we are paying the price of an arrogance that refuses to recognize mystery. The author, the foremost modern Christian existentialist, invites the reader to enter into the argument that he holds with himself on a great number of problems.

Written in the early 1950s, Marcel's discussion of these topics are remarkably contemporary. No easy solution is offered, but the Marcel conveys his own faith that ultimately love and intelligence will triumph.

1-58731-490-8, 208 pages, paperbound, \$17.00, October



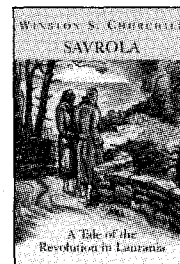
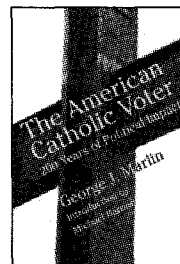
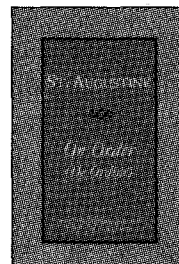
John Zyrkowski, *It's the Sun, Not Your SUV: CO₂ Won't Destroy the Earth*; definitive, interactive proof that warming is caused principally by the sun, not man; 1-58731-376-6, cloth, 176 pp., \$17.00, October

St. Augustine, *On Order [De Ordine]*; St. Augustine's first work, on the nature of political order; 1-58731-603-X, cloth, 192 pp., \$24.00, August

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George J. Marlin, *The American Catholic Voter: Two Hundred Years of Political Impact*; updated edition, through the 2004 election; 1-58731-029-5, paper, 448 pp., \$19.00, June

Winston S. Churchill, *Savrola: A Tale of the*



Revolution in Laurania; definitive edition of Churchill's only novel, André Collot woodcuts; 1-58731-754-0, cloth, 336 pp., \$30.00, November

Not Pictured

Winston S. Churchill, *The River War: An Historical Account of the Reconquest of the Soudan*; definitive edition by James Muller, foreword by Lady Soames (Churchill's only surviving child); the definitive edition of Churchill's early masterpiece, with colored maps, heavily illustrated – a publishing event of the first order; 1-58731-700-1, two vols., cloth, ca. 1,350 pp., \$150.00, Nov.

Nalin Ranasinghe, ed., *Logos and Eros: Essays Honoring Stanley Rosen*; renowned scholars on Rosen and philosophy; 1-58731-470-3, cloth, 334 pp. \$45.00, Aug.

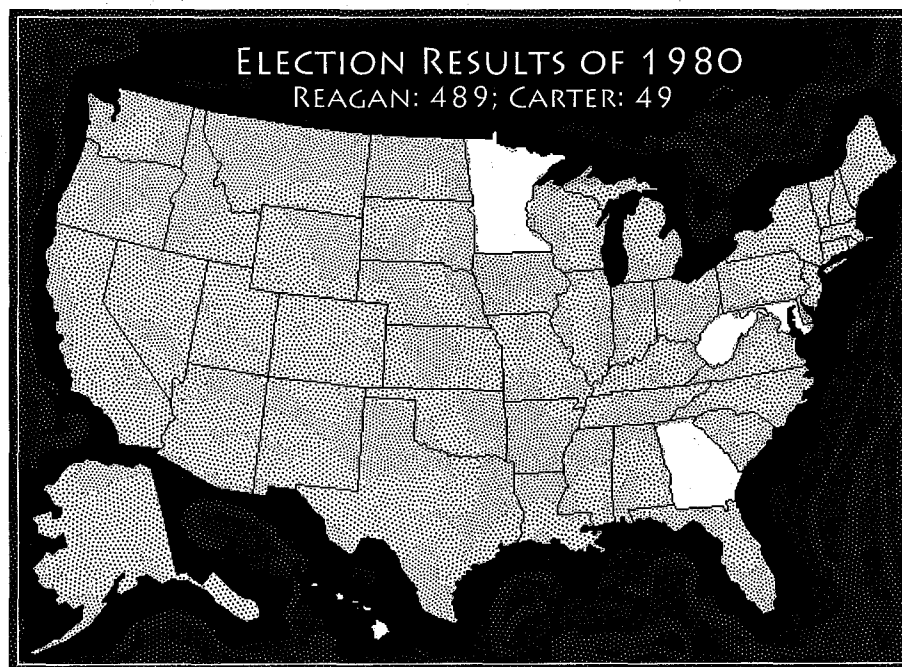
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Book Review by Michael Barone

THE YEAR LIBERALISM DIED

Reagan's Victory: The Presidential Election of 1980 and the Rise of the Right, by Andrew E. Busch.
University Press of Kansas, 200 pages, \$35 (cloth), \$16.95 (paper)



AMERICAN LIBERALISM DIED IN 1980. Of course, no one knew it at the time, and if the journalistic coverage of that year's presidential campaign was any indication, you might have thought liberalism was still a vital force in American life and conservatism a credo of cranks. That was, after all, the conventional wisdom from the 1930s clear up to the end of the 1970s. The liberalism of the New Deal and the Great Society, of Keynesian economics and Phillips Curve manipulation, was, we were told, the only rational way of governing a large industrial society. And after the apparent failure of the American effort in Vietnam, we were lectured that conciliation and negotiation were the only rational means of managing foreign policy in a world heading toward convergence of our system and that of our adversaries.

But 1980 changed all that, as Andrew Busch ably demonstrates in his incisive *Reagan's Victory: The Presidential Election of 1980 and the Rise of the Right*. As Busch makes clear, Ronald Reagan's smashing defeat of Jimmy Carter was the result not just of a political failure by the Democratic party or a particular president, but of the policy failure of American liberalism itself. Those of us who remember the 1980 campaign sometimes forget how dire things seemed as we entered that election year. Busch begins his narrative with an account of Jimmy Carter's

July 15, 1979 "malaise" speech (which, as he notes, never included that infamous word), and quickly sketches how we'd come to that point. He reminds us that in the 1970s, *Time* magazine featured cover stories like "Can Capitalism Survive?" Keynesian economics, which had promised us endless low-inflation economic growth, had in fact produced high-inflation economic stagnation—"stagflation," as it came to be called.

Abroad, the United States was under attack and seemed to be in retreat. Communists were advancing in the Third World from Angola to Grenada to Afghanistan. The Soviet Union was rapidly expanding its vast arsenal, while American leaders were fixated on ratifying "arms control" agreements that limited the U.S., but not the USSR. Iranian Islamist radicals seized American diplomats—an act of war, as Busch points out, but which few journalists or politicians noted at the time—and the U.S. government begged to allow us to send them Christmas presents, while ordinary Americans tied yellow ribbons around trees. Elite opinionmakers told us America's best days were over, and that we should act like adults and accept a world where there were limits on economic growth and where American power must inevitably be eclipsed.

Busch's chronological narrative of the 1980 presidential campaign, together with his trenchant analysis, shows how the American

people rejected these notions. Their rejection meant that the old rules about American politics, laid down mostly by political scientists who studied the 1930s and 1940s, no longer applied. Jimmy Carter was challenged on the left in the Democratic primaries by Edward Kennedy, and the old political rules said that Democrats would tend to prefer the bigger-government candidate. But Kennedy's candidacy was rejected; outside his home state of Massachusetts, Busch shows, he won primaries only when it seemed clear that he had no chance of winning the nomination. That showed in turn that many registered Democrats—when Democrats had a huge party-registration advantage in most states—were no longer reliable supporters of the Democratic president.

AS FOR THE REPUBLICANS, THE OLD RULES counseled nominating a moderate to win over centrist voters. This is what the Republican Party had done in every election year from 1940 to 1976, with the single exception of 1964 when Barry Goldwater was drubbed—apparently confirming the old wisdom. But in 1980 these old rules no longer applied. The putatively moderate candidates—George H.W. Bush, Howard Baker, John Anderson, John Connally—did not win the nomination. Ronald Reagan did. Here was a proud conservative who, according to the old rules, should have been a

sure loser in November. Indeed, his conservatism was so pronounced that one of his primary competitors, John Anderson, set out to run as an Independent.

Jimmy Carter's campaign was unified and its top strategists were highly talented people. Their strategy was twofold: reassemble the old New Deal coalition, with specific appeals to specific interest groups, and attack Reagan as a dangerous extremist. Both failed. Busch shows that significant percentages of the building blocks of the New Deal coalition shifted to Reagan: blue-collar workers, white ethnics, Catholics, Evangelical Christians, Jews, even blacks and Hispanics. Men, previously more Democratic than women, became more Republican than women, as they have been ever since. These voters were less concerned about getting more from government than in getting a government that worked.

As for Reagan's extremism, well, it didn't seem very extreme when the world produced by liberal policies seemed in such bad shape. American liberalism was reduced to arguing for itself *faute de mieux*. Reagan, with an ebullience and optimism that evoked his onetime political hero Franklin Roosevelt, begged to differ:

They tell us they've done the most that humanly could be done. They say that the United States has had its day in the sun; that our nation has passed its zenith.

They expect you to tell your children that the American people no longer have the will to cope with their problems; that the future will be one of sacrifice and few opportunities. My fellow citizens, I utterly reject that view.

If liberalism had proven itself incapable of fulfilling the American dream, Reagan proclaimed that conservatism could—and would.

THE 25 YEARS FOLLOWING REAGAN'S inauguration have justified that proclamation. In his concluding chapters, Busch looks at the results of the congressional elections of 1980 and notes the major Republican victories; he also offers a quick survey of our politics in the '80s, '90s and the current, hard-to-name decade. Since Carter's defeat in 1980, no national Democratic candidate who positioned himself as far to the left as he did (much less Edward Kennedy) has succeeded. Bill Clinton won by campaigning and, after Democrats lost control of Congress in 1994, governing as a very moderate Democrat, respectful of market economics and calling for America to take a leading role in world affairs. He increased the Democrats' share of the presidential vote (while lowering the Democrats' share of the popular vote for the House) not by reassembling the old New Deal coalition, but by attracting affluent voters of a secular cast or

who were otherwise turned off by the Republicans' cultural conservatism.

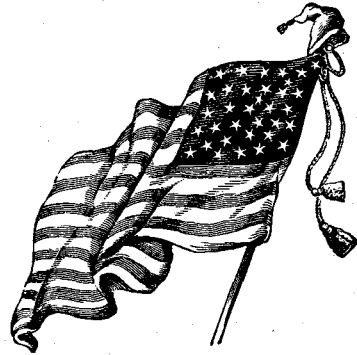
Even so, neither Clinton nor the two successive Democratic nominees have been able to win more than 49% of the popular vote, much less the 59% that Reagan achieved when he sought reelection in 1984. As for the Democratic party, it gained back 26 House seats in the recession year of 1982, but since then hasn't made a net gain of more than 10 seats in House elections—and suffered a net loss of 52 in 1994. It regained a majority in the Senate by winning most close elections in 1986, but lost the majority again in 1994 and has hovered between 45 and (for 18 brief months) 51 Senate seats ever since.

In other words, Americans haven't regretted their rejection of liberal governance in 1980. They have reaffirmed it time and time again. The old rules that seemed to govern politics up through the 1980 election are now nothing more than, well, old rules, of historical interest but no practical importance. For that election remade not only American politics and American government, but America itself. That is Andrew Busch's striking argument. And his graceful narrative does a fine job of telling us just how it happened.

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GOOD-GOVERNMENT CONSERVATISM

Getting America Right: The True Conservative Values Our Nation Needs Today, by Edwin J. Feulner and Doug Wilson.
Crown Forum, 231 pages, \$26.95



AS JEALOUS LIBERALS HAVE COME TO realize more and more, the modern conservative movement owes much of its vitality and success to the careful, imaginative intellectual work of a small platoon of think tanks that began to proliferate in the 1970s. These organizations of scholars, researchers, and practitioners nurtured conservative ideas, brought them into the political mainstream, and helped put them into political practice. Among their most important achievements was to bring to light the constitutionally disastrous tendencies of the modern administrative state and to formulate alternative policies consistent with free government.

One of the pathbreaking products of these efforts was the Heritage Foundation's *Mandate for Leadership*, a thousand-plus-page manual presented to President Ronald Reagan upon taking office (and updated several times in the next quarter-century). With that bold compendium of reforms, conservatives proved that they were not content merely to criticize liberal programs; they were ready to govern. Headed by Edwin J. Feulner, Heritage continues to shape debates in Washington, D.C., and to cultivate the next generation of conservative policymakers. In addition, Heritage was instrumental in creating Townhall.com, an online forum for conservative opinion, information, and discussion that attracts younger conservatives. The website became independent last year, but Feulner has teamed up again with Townhall chairman Doug Wilson to write *Getting America Right: The True Conservative Values Our Nation Needs Today*. The book is a spirited call to action, extending their argument for limited government beyond the Beltway to the American public.

Feulner and Wilson begin with a typical conservative question, "Where did things go wrong?" By "wrong" they mean: how has a government established to secure our natural rights

become a government that spends \$1 million restoring an uninhabited Alaskan island, or \$3 million on Virginia horse trails? The examples of political mischief multiply until a vivid picture emerges of a government that has lost the ability to discern its rightful purposes.

The book is organized around six questions that the authors believe Americans should ask whenever their government acts: (1) "Is it the government's business?" (2) "Does this measure promote self-reliance?" (3) "Is it responsible?" (4) "Does it make us more prosperous?" (5) "Does it make us safer?" and (6) "Does it unify us?" With an effective mix of data and with choice quotations from the American Founders, Lincoln, Churchill, and others, Feulner and Wilson elaborate on these benchmarks and show how some government programs like the Homestead Act, the G.I. Bill, and the 1996 Welfare Reform Act meet these basic criteria. They also catalogue several ways in which both Democrats and Republicans (including, sometimes, President Bush) have failed to honor them. In the end, it is not enough for government to "move" whenever people are hurting if moving means waste, fraud, and reducing citizens to clients of an unlimited welfare state.

IN THE SPIRIT OF RONALD REAGAN, THE authors are cheerfully optimistic that the American people remain basically united around sound conservative political opinions. Occasionally, Feulner and Wilson veer into populism, declaring that "a free society is best guided from its grass roots" and "as federalists, we aim to keep decision-making as close to the people as possible" (not quite what Publius had in mind). Besides, conservatives seeking guidance from the grassroots may have their work cut out for them. Whatever their personal values, too many Americans seem already to have made their peace with the unlimited modern state and what it can

do for them. (For a hilarious example of this dependent mentality at its worst, the book includes a transcript of a 911 call to remedy a complaint over a fast-food deluxe cheeseburger.)

Getting America Right does not pretend to address all of the current political challenges that conservatives need to face. There is no discussion of important cultural issues like biotechnology, abortion, or gay "marriage." Feulner and Wilson catalogue some of our elected representatives' diddlings over defense bills, but do not consider ballistic missile defense or attempt to define the proper scope of American foreign policy. They address immigration policy, but primarily to show how bureaucracy undermines the honor that used to attach to citizenship. Nevertheless, the political war of ideas has many fronts and the aim of this book is to focus attention on the overarching need to restore energetic, constitutional government.

At the heart of this primer is the practical wisdom to "apply old ideas to new circumstances." In particular, the authors call for a "return to core principles...grounded in our founding document, the Declaration of Independence." Conservative think tanks and journals have increasingly recognized in recent years that it is not enough for government to be compassionate, or traditionalist, or libertarian. Good policy will become true statesmanship only when it is rooted in the distinctively American political tradition of natural right. Conservative policies planted in that rich American soil will endure. In an epilogue, Feulner and Wilson remind their readers how much our forefathers sacrificed for these principles, both in the founding generation and in the Civil War. *Getting America Right* calls on Americans to renew our devotion to them once again.

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THE BAD MAN SCHOOL OF HISTORY

Mao: The Unknown Story, by Jung Chang and Jon Halliday.
Alfred A. Knopf, 832 pages, \$35

THIS HUGE BIOGRAPHY OF THE 20TH-century political giant is based on prodigious research and contains fascinating new material. Jung Chang, who is of Chinese origin, and Jon Halliday, her British husband, offer plenty of passion and detail in their unremittingly negative but engrossing portrait of Mao Tse-Tung. Overall the book is less the "unknown story" promised by the subtitle than a known story distilled into a polemic.

Seven decades ago an unknown story of Mao did appear in journalist Edgar Snow's *Red Star Over China* (1938). Coming from the dusty caves of remote Shaanxi Province, where Mao had recently concluded his Long March in flight from Chiang Kai-shek's Nationalist forces, Snow's report arrived like a capsule from another planet. *Red Star* presented Mao's life from Mao's point of view. (Snow eventually called Mao a friend, and the People's Republic of China returned the favor.) In 1967, Stuart Schram, the pre-eminent scholar of Mao's writings, pieced together Mao's life and analyzed his thought in a scientific way in *Mao Tse-Tung*; part of this was also an unknown story. But in a half century of scholarship, Schram, like many other Sinologists, seldom moralized about Mao. To be sure, Sinologists recorded Mao's murders, lies, betrayals, and envies. But until Chang and Halliday, even sturdy critics have seen both achievements and failures in Mao; brilliant traits and blind spots; good intentions and evil intentions. This however is a slash-and-burn biography, a dossier against all Mao stood for, a bitter cry of rage against everything Mao did and tried to do. "Absolute selfishness and irresponsibility lay at the heart of Mao's outlook," they declare. Their assertion that "Mao's peasant background did not imbue him with idealism about improving the lot of Chinese peasants" denies a near-consensus in Sinology that Mao empathized with rural China. The "destruction of Chinese culture," they say, "typified his rule."

A common approach to Mao has been to draw up a "balance sheet" of his deeds and misdeeds. This was Deng Xiaoping's solution to his own Mao problem in 1980, four years after Mao's death. Deng declared Mao 70% correct and 30% mistaken, hoping this would forestall perilous debate. "Great aims but terrible costs" is another popular approach to Mao, especially

among Sinologists. The omelet was worthwhile even as one regrets the collateral damage to the eggs. There is also a "good Mao up to the later 1950s, bad Mao thereafter" approach, as if the Cultural Revolution of the late 1960s was a departure from Mao's otherwise defensible social engineering. My own biography of him asked the question, "What went wrong with Mao and why?" The young Mao was after all an individualist; his descent to totalitarianism cried out to be explained. I predicted that the evaluation of him within China might one day be, "Good Mao, Bad Marxism." He unified and strengthened China, it will be said, but embraced an illusory doctrine.

CHANG AND HALLIDAY SIMPLY DENOUNCE Mao: "To the whole of China, Mao's rule brought unprecedented misery." Calculating the cost of developing the atomic bomb (first tested in 1964) in terms of resources wrenched from the rice bowls of hungry Chinese during the terrible Great Leap Forward of the late 1950s, they write, "Mao's Bomb caused 100 times as many deaths as both of the Bombs the Americans dropped on Japan."

By locating China's misery in one man's perfidies, Chang and Halliday have written a rather Confucian book. In Chinese tradition, good rule occurred when the emperor was virtuous; troubles (even earthquakes and floods) suggested the emperor was a bad man. The authors' thesis is that Mao was utterly lacking in virtue—toward his family, staff, and colleagues, as well as the broad Chinese public, not to mention the globe's non-Chinese inhabitants. Everything follows from that. Lacking human feeling, or *ren qing*, he could not possibly do good.

Yet despite its limitations, the book enriches our picture of Mao. For example, it brings out Mao's awkwardness as a culturally narrow Chinese in international Communist circles. We see his secret dealings with the Japanese invaders in the 1930s and Stalin's suspicions on that score. Chang and Halliday strengthen the case made by Lucian Pye in *Mao Tse-tung: The Man in the Leader* (1976) that Mao was a "borderline personality," supplying stories of his deviousness, fascination with burning books, and fetish for killing and violence. A Moscow document unearthed by Halliday (who knows

Russian) skewers the buccaneering American leftist Agnes Smedley as a Comintern agent. In 1936, the Comintern amazingly sent half a million dollars to Mao in Shaanxi Province via Sun Yat-sen's widow Song Qingling and a New York bank. Mao's hatred for and appalling treatment of number-two figure Liu Shaoqi is made clear as never before.

In particular, Chang and Halliday offer two new, well-supported arguments about the Long March of 1935-36. At the time, Chiang Kai-shek's son was in the Soviet Union; his father feared the boy was becoming Stalin's prisoner. A *pas de deux* began between Stalin and Chiang Kai-shek, with the former nudging the latter to be softer on the Communists (Moscow was then skeptical of the Chinese Communist Party's near-term prospects), while Chiang Kai-shek sought his son's return. It may well be that this bargaining contributed to Mao's ultimate success in the Long March.

The book also suggests that Chiang limited his attacks on CCP forces during the Long March in order to lure them westward into the arms of warlords; the two forces would thus fight and weaken each other. In effect, this ploy helped Chiang subdue southwestern warlords while allowing the Long March to proceed and finally place Mao in the safe (but distant) redoubt of Yanan. Of course, to Chang and Halliday, the significance is that the Long March was not a great achievement of Mao's after all, since Chiang had, in fact, let him off the hook.

The authors give a brilliant account of Mao's arrogant foreign policy in the 1960s. The aging tyrant simultaneously, and riskily, alienated both the Soviet Union and the United States. He indulged Chinese chauvinism in Asia and Africa as if the world were China's backyard. He seemed to draw psychic satisfaction from making enemies and displaying China's supposed class purity.

MAO: THE UNKNOWN STORY CANNOT be dismissed, as Beijing has tried to do, as a Western attack on Mao in particular and Communist China in general, because it is PRC sources that were largely the focus of Chang and Halliday's interviews and research. Scores of mainland China witnesses testify to Mao's lack of virtue through every decade of his adult life. A doctor who observed

his treachery first-hand says Mao poisoned his great rival of the Yanan years, Wang Ming. In Jiangxi Province during the 1930s, Mao built up a treasure trove of gold, silver, and jewelry—an equivalent of a Swiss bank account—to secure his personal position. A playwright ridicules Mao's efforts to transform culture: "Why is it necessary to have 'leadership' in the arts? Who led Shakespeare, Tolstoy, Beethoven, Molière?"

Strikingly, and most unfortunately, there is hardly any discussion in these well-written pages of Mao's flawed ideas. Zhou Enlai was "in thrall to his Communist faith," but Mao, according to this book, was not. This is difficult to accept—and yields contradictions that are not explained. One moment the authors offer fresh writings by Mao's early wife, Yang Kaihui, showing how much she loved Mao and Mao loved her. The next moment they argue that Mao cared only for himself. Did his wife somehow miss that for years?

Repeatedly, we are told that Mao was so virtuous that no one liked or agreed with him. Yet he survived and his opponents either fell or pulled back. We read many times that he was found intolerable by Moscow; yet Chang and Halliday also say Mao was "indispensable" to Moscow. Left unexplained is the wide variety of political outcomes from Mao's clashes with others. Sometimes colleagues criticized Mao and got away with it. Why was this? Sometimes Mao retreated in a sulk and the opportunity arose for a coalition of colleagues to overthrow him—but they never did. When Mao quarreled with the powerful Zhang Guotao and his sympathizers during the Long March, everything the authors say about the quarrel makes the reader expect a coup, but it does not happen. Soon we have Mao "burying alive" 200 of Zhang Guotao's followers; the triumph of evil goes inexplicably on.

The monster approach to Mao would have worked better if Chang and Halliday had integrated their moral stance and arresting new material with the complementary analyses in such sources as Pye's book and (Mao physician) Li Zhisui's *The Private Life of Chairman Mao* (1996). The public Mao and the private Mao need to be more subtly linked. The authors should have asked: What made Mao an exceptional man? Why did he become a leader? What happened to his personality and private life as power accrued to him?

Mao was a man of ideas and of action, who disliked full-time intellectuals. He was also part tiger and part monkey, as he said of himself. His ruthless side knew how to crash through from point A to point B, but his quixotic side had doubts that B was really any better than A. His cyclical sense of history made him dissatisfied with any plateau of achievement after 1949, puzzling his less tempestuous colleagues. Above all, the flaws of Marxism-Leninism trapped Mao. As socialism kept failing to deliver the beauties he expected ("We started socialism, and everything disappears," said Liu Shaoqi), Mao pursued phantom enemies. All these themes and others must supplement Chang and Halliday's simple line that the unifying element in Mao's career was his lack of virtue.

TO BE SURE, BIOGRAPHIES ARE SELDOM objective. Snow's *Red Star Over China* was worse than polemical. In common with most journalists, diplomats, and Roosevelt Administration officials in the late 1930s, Snow's agenda was anti-fascism. For him there could be no enemy on the Left; any anti-fascist was *ipso facto* a democrat. In thrall to this agenda, Snow was repeatedly duped by staged interviews. By comparison, Chang and Halliday's one-sidedness is straightforward and unapologetic.

In any life story, a tension exists between the remarkable or unique in the person—the reason for the book—and those universals that induce in the reader a pang of recognition. To my taste there's too little of the latter in this book. In Peking Opera, you can make a unity of a character by creating a villain uniformly villainous and a hero unfailingly heroic. It's less appropriate to a biography. There's a distressing lack of paradox, evolution, and tragedy in *Mao: The Unknown Story*.

Yet the opening was there for this book. Sinology has tended to focus on Mao's aims, upholding their consistency and discovering in his texts justifications for what he did. Many of his outrageous statements ("poverty is good") have been given a pass by most Sinologists. China specialists have by no means denounced *Red Star*. They have overwhelmingly shied away from comparisons between Mao and Hitler. (Hitler won a large number of votes at an election, which is more than can be said for Mao). Yet as early as the Hundred Flowers outbursts

of 1956, numerous Chinese voices have likened the two dictators. To their great credit, Chang and Halliday hold up a universal standard, implicitly asking their English-speaking audience not to condescend to the Chinese, not to excuse Mao in the name of Chinese uniqueness or exoticism. In whatever national dress, dictatorship is dictatorship, cruelty is cruelty, lies are lies.

Seldom has a huge book ended with such a short final chapter. Here it is in its entirety:

Today, Mao's portrait and his corpse still dominate Tiananmen Square in the heart of the Chinese capital. The current Communist regime declares itself to be Mao's heir and fiercely perpetuates the myth of Mao.

The authors insist that Mao's state remains China's state today. They hope their book will contribute to the end of Communist rule in China. Is it extreme or one-sided to foresee the end of Communist rule?

Let me answer with an anecdote. A well-known liberal publication said it was "one-sided" of me in *The New Chinese Empire* (2003) to predict that Communist rule will soon collapse in China. What, I wonder, are the two sides of that issue? Perhaps liberals mean that one extreme is to say a regime, say Castro's Cuba or today's China, is a terrific success, while the other is to say it is ultimately going to fall. Hence the reasonable liberal middle, according to the *New York Times*, *Publishers Weekly* and other left cultural gatekeepers, is to conclude that the mixture of success and disappointment in Havana and Beijing will go on indefinitely. Happily, at least for those who live under these regimes, Marxism's history in the late 20th century makes that unlikely. But when the Chinese Communist Party does lose its hold on power, it will not be because of Mao's personal evils alone, but also because of Communism's flaws and contradictions.

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Shadow Play, by Martha Bayles



Uncaptive Mind

All my films, from the first to the most recent ones, are about individuals who can't quite find their bearings, who don't quite know how to live, who don't really know what's right or wrong and are desperately looking.

—Krzysztof Kieslowski

WHEN CZESLAW MILOSZ WON THE Nobel Prize for Literature in 1980, the esteem he enjoyed in Poland blossomed into adoration. And as the struggle against Communist rule intensified during the 1980s, the long-exiled poet found himself cast as the "national bard." Yet as Milosz remarked to many interviewers (including this one), "I am not by nature a political writer." The example he offered was not his youth in Nazi- and Soviet-occupied Polish Lithuania, but his 1960 arrival in America, where his reputation rested solely on *The Captive Mind*, his 1953 study of the corruption of literature under Communism. "Pressed to play the role of the crusading anti-Communist but lacking the ability," he settled for being "an obscure professor in an obscure department" (Slavic literature at U.C. Berkeley). "But," he added with a wink, "I was happy. I had come in search of bread, and I found it."

Most Polish artists worth their salt are obsessed with the tension between individual expression and communal obligation. Not for them the tidy balance articulated by William James: "The community stagnates without the impulse of the individual. The impulse dies away without the sympathy of the community." When for generations one's national identity has been brutally suppressed, and the only way to preserve it is through culture, the artist feels acutely his responsibility to the community. But when the dead hand of ideology squeezes the life out of all communal expression, the

artist feels just as acutely his responsibility to himself. To produce good work amid such cross currents takes not only talent but doggedness.

To some, this is ancient history, because Polish artists now enjoy Western-style freedom, albeit at the price of feeling marginalized by Western-style entertainment. Nevertheless, the international reputation of some Polish artists, notably the film maker Krzysztof Kieslowski, has never been higher. To use a crass commercial yardstick, the DVD boxed set of his *Decalogue* series (ten one-hour dramas based loosely on the Ten Commandments, made for Polish TV in 1988) is currently number 3,700 in Amazon.com's sales rankings (about even with The Alfred Hitchcock Signature Collection). Another Kieslowski boxed set released in 2003, the *Three Colors* trilogy (*Blue*, *White*, and *Red*), is a staple in video stores everywhere. And in 2005 Kino Video released The Krzysztof Kieslowski Collection, a six-disc boxed set including several of the director's earlier films and some fascinating interviews.

Loyalty to Poland

KIESLOWSKI DIED IN 1996 AT THE AGE of 54, while undergoing heart surgery in Warsaw. Accounts vary, but most agree that he turned down the chance to have the operation done in a Western hospital with state-of-the-art training and equipment. Christopher Garbowski, author of *Krzysztof Kieslowski's Decalogue Series*, offers this explanation: "The hospital where he had the operation was supposedly qualified, and he simply didn't seem to have such an unusual problem. He was something of a patriot on these matters, not wanting to go abroad if it didn't seem necessary." This

explanation captures two of Kieslowski's most salient traits: his loyalty to Poland, and his skepticism toward newfangled gimmickry from the West.

The loyalty ran deep. Born in 1941, Kieslowski had an unsettled boyhood, because his father suffered from tuberculosis and had to move from sanatorium to sanatorium. Intense, gloomy, but gifted with wry humor, Kieslowski enrolled at age 17 in the College for Theater Technicians in Warsaw, because it was better than the alternative presented by his father, which was to become a fireman. As he muses in his autobiography, "My father was a wise man.... [He] knew perfectly well that when I got back from that fireman's training college, I'd want to study." The years 1958-1962 were extraordinarily creative in Polish theater, and Kieslowski aspired to become a theater director. But in order to do that, he had to attend another institution of higher learning. After three attempts, he was accepted by the Lodz Film School.

That it took three attempts should not reflect poorly on Kieslowski's abilities, since typically there were 1,000 candidates for five or six places. Nor should it suggest undue political conformity, because the Lodz Film School enjoyed a fair amount of freedom at the time—at least until 1968, when General Mieczyslaw Moczar cracked down on the student movement and purged thousands of Jews from higher education. With bitter sarcasm, Kieslowski recalls how the authorities cloaked their actions in "grand words" about "experimental cinema," which meant in effect that it was better "to cut holes in film or set up the camera in one corner for hours on end" than "to see what was happening in the world, how people were living and...why their lives weren't as easy as the paper described them."

To catch Kieslowski's drift, you need only watch *The Office*, a six-minute student film he made in 1966 that shows a line of patient sufferers getting the bureaucratic run-around in a state insurance office. Not only does the film draw a devastating portrait of official hard-heartedness, it also lights a spark of pure defiance at the end, when over the grating voice of the clerk repeating, "Write down everything that you have done in your entire lifetime," the camera pans a wall of shelves sagging with hundreds of folders, each containing an "entire lifetime."

The 1968 crackdown did not prevent documentaries from being made, however. During the 1970s they were perhaps even more highly regarded than feature films. And the production of both was generously subsidized by the state. Of course, no film could be shown without the approval of the Vice Minister of Arts and Culture and the State Board of Censorship, and many were shelved. But the film-making process was pretty much controlled by self-governing Production Houses (for features) and Studios (for documentaries). Each of these Zespoly (zespół means "team") had its own distinctive character and tended to attract...well, distinctive characters. Thus it was only natural that, after graduating from Lodz, Kieslowski would gravitate toward the Documentary Film Studio (WDF) in Warsaw.

At WDF Kieslowski continued for a while in the same vein, showing the evils of officialdom and the tribulations of the masses. And he became expert at the game of getting his films past the censors. Actually, one of the most fascinating interviews in the Kino collection is with Irena Strzakowska, an officer of the censorship board who (against type) is a smart, handsome woman who ended up collaborating with Kieslowski on a number of films. But as the 1970s wore on, Kieslowski's documentaries began to work on a quite different level, one that neither attacks nor defends the system but rather probes the humanity of all those who must live with it, including officialdom.

Not a Local Artist

THE MOST STRIKING EXAMPLE OF THIS is *From the Night Porter's Point of View* (1978), a 17-minute portrait of Marian Osuch, a watchman and all-around enforcer in a Warsaw factory. Shot on East German film stock known for its cold garish colors, the film combines a voice-over of Osuch's musings with scenes of him collaring a vagrant, monitoring the workers as they clock in and out, training his guard dogs, and finally hosting a group of visiting school children. His views are, shall we say, not those of the enlightened intelligentsia.

He believes in law and order, strict rules, total obedience, and (when necessary) public hangings. His home life elicits no warmth, only a comment about his daughter boiling his pet fish to death and his son drowning his pet budgie. To judge by the dog scenes, this is a man who prefers animals to humans because they are more trainable.

Yet the film is suffused with a strange tenderness. In his autobiography Kieslowski recalls that it took forever to find the right porter. The first one selected had the requisite "anti-humane or fascist opinions," but he also "had so many shortcomings it was absolutely impossible to make a film about him." In other words, Kieslowski went to great lengths to find a more sympathetic "fascist." At the end of the film, when the visiting teacher asks the children to identify "the officer in the fine uniform," we don't hear their reply (apparently it was cut). But we do see Osuch's expression: that of a lonely, beleaguered man whose heart positively aches for respect.

Kieslowski's distrust of the West may not have helped him in medical matters, but it served his art well. The humanity that shines through his portrait of Osuch continued to illuminate just about everything he did. Of course, humanity can be a liability among a certain class of cinéastes. One of Kieslowski's mentors, the director Krzysztof Zanussi, says Kieslowski was "long undervalued outside Poland," and that the Cannes Film Festival rejected two of his most accomplished films, *Camera Buff* (1979) and *Blind Chance* (1981), as the work of a "local artist." Why the same charge didn't apply to the ever-so-American *Norma Rae*, which took several prizes in '79, and the ever-so-German *Mephisto*, which did likewise in '81, is unclear.

Camera Buff is anything but "local." It's about a callow young factory worker named Filip (Jerzy Stuhr) who buys an 8mm camera to film his new baby, then gets mesmerized by the challenge of trying to film the whole world. Like Kieslowski, Filip is initially embraced by the authorities—the bosses in his factory ask him to chronicle a big meeting. But Filip cannot resist showing them sneaking out to the men's room, so he loses his new status, his job, and eventually—as he proves incapable of curbing this new passion for truth-telling—his wife and child. Along the way, though, Filip does one good thing. He makes a TV documentary about a fellow worker who is a dwarf, and despite some fussing on the part of the censors over whether the film disparages its subject or (here's the real disparagement) insults Polish labor, the film is broadcast—and everyone loves it, including the dwarf, a simple man who weeps because "it is beautiful."

Chance and Purpose

BLIND CHANCE, ONE OF KIESLOWSKI'S most fascinating films, is based on a clever device—a "butterfly effect" arising from a mishap that occurs while a medical student named Witek (played by Boguslaw Linda) is running for a train. In the first scenario, Witek bumps a man in the crowd, pauses briefly to apologize—and catches the train. In the second and third, he pauses a moment longer—and misses the train. Then the story splits again, as the first miss leads Witek to a scuffle with the station guard, the second to an encounter with a woman from his anatomy class, whom he later marries.

In 1998 this device was copied in a fluffy British movie, *Sliding Doors*, and a trendy German one, *Run, Lola, Run*. But there's nothing fluffy or trendy about *Blind Chance*. On the contrary, each of Witek's possible lives presents him with choices that still resonate today. Catching the train, he meets an older man who recruits him into the ruling Communist Polish United Workers' Party. Missing the train and getting into a scuffle, he is arrested and while doing community service gets drawn into a student-Catholic-worker movement that looks a lot like Solidarity. Missing the train and meeting his future wife, he decides to stay out of politics and focus on his career. Ironically, each path brings him to the same place: in the Warsaw airport trying to board a plane out of Poland. In the third life he succeeds, only to have the plane explode during takeoff.

Blind Chance came out during an especially rough time. In December 1981 General Wojciech Jaruzelski declared martial law, driving Solidarity underground and crushing the hopes of thousands. In that atmosphere, the film was attacked by all sides—indeed, it may be one of the most politically incorrect films ever made. But Kieslowski wasn't trying to be politically correct, he was trying to transcend a situation that felt politically hopeless. The title is meant ironically, because as he put it, "Witek, the main character, behaves decently in each situation. He behaves decently even when he joins the Party. At a certain moment, when he sees that he's been manipulated into a situation where he ought to behave like a bastard, he rebels and behaves decently."

Looking back, Kieslowski is quite critical of *Blind Chance*. But his remarks about that film illuminate both it and his subsequent masterpiece, the *Decalogue*: "We don't ever really know where our fate lies.... Fate in the sense of a place, a social group, a professional career, or the work we do. We've got much more freedom than this in the emotional sphere." In other words, human beings are subject to fate and

blind chance, not to mention the so-called objective forces of history. But they are also free to make choices. If they were not, then there would be no such thing as plot or character. According to Aristotle, the most important ingredient in tragedy is plot. It's not character, because character is revealed only through action, i.e., plot. It's probably worth noting that by "action" Aristotle did not mean helicopters crashing into suspension bridges. He meant moral action, the kind we judge "decent" or "like a bastard."

Aristotle also said that the best plots are so powerful that a bare-bones summary is enough to move a listener. To this ancient wisdom Kieslowski adds the modern insight that "everybody's life is worthy of scrutiny." That is why he and his co-writer Krzysztof Piesiewicz shot all ten *Decalogue* segments in the same large apartment complex. "It's the most beautiful housing estate in Warsaw," Kieslowski recalled, "which is why I chose it. It looks pretty awful so you can imagine what the others are like." For the sake of illustration, here is a summary of the first plot, reflecting on the commandment "Thou shalt have no other gods before me": An agnostic scientist and his adored ten-year-old son are so excited by the powers of their new computer, they ask it to calculate the exact hour when the ice on a nearby pond will be thick enough to hold a skater. The computer produces the answer, the boy goes skating, and when the ice breaks unexpectedly, he drowns. After watching all ten of these simple, powerful stories, you will never look at an ugly apartment complex in quite the same way again.

Kieslowski was a doubter not a dogmatist, and the *Decalogue* series ends with an anti-Ten Commandments rock song: "Kill, kill, kill / Screw who you will... Everything's yours." But this negation only underscores the affirmation of the whole. About the Ten Commandments, Kieslowski has said, "Everyone breaks them daily. Just the attempt to respect them is a major achievement."

The French Films

LIKE MANY EASTERN EUROPEAN ARTISTS, Kieslowski felt his own world start to crack after the fall of Communism. For one thing, there was no money to make films in Poland, so he relocated to France to make his final four: *The Double Life of Véronique* (1991) and the *Three Colors: Blue, White, and Red* (1993-4). It would be nice to say that the French climate agreed with our Polish emigré, but to judge by the results, it did not. By a strange sort of alchemy, the moral sense of Kieslowski's best films gets transformed, in the Parisian setting, into

a self-conscious preoccupation with the process of film-making.

Take, for example, the theme of alternative lives, which in *Blind Chance* is tied to such larger questions as how does one live when one's choices are constrained by injustice and repression? In *The Double Life of Véronique*, the larger question is...what? After an opening sequence about Weronika, a very pretty Polish singer (Irene Jacob) who dies of a heart attack, the focus shifts to picturesque Paris, where an identical very pretty young woman is mooning over mysterious "signs" sent to her by a very handsome young man (Phillippe Volter) who makes his living performing with marionettes. After much dithering they meet, and Véronique gets to moon over his marionettes, which, he explains, must be created in pairs because—*hélas!*—one of them might get "damaged."

The story ends with Véronique returning to her family homestead, where we can be sure she will be safe. The trouble is, she was pretty safe to start with. Compared with Weronika, whose life seems interesting, or at any rate real, Véronique seems incredibly idle and self-absorbed. In other words, she's a typical young woman in a French art film, beautiful to look at but devoid of any recognizable human emotion.

The *Three Colors* take their cue from the French flag: blue for liberty, white for equality, red for fraternity. *Blue* is about a woman (played by Juliette Binoche) who, after losing her husband and child in a car accident, tries to live a totally unfettered life, only to discover that this is impossible. *Red* is an intriguing study of a cynical retired judge (Jean-Louis Trintignant) who eavesdrops on his neighbors' phone conversations until a young fashion model (Irene Jacob again) gently restores his humanity. *Red* is beautiful to look at, but in a self-indulgent way, as the camera lingers a bit too obsessively on Jacob. Some feminist critics have accused Kieslowski of committing fashion photography on these female performers, which is certainly the case. Binoche is a more interesting actress than Jacob, but after a while both films start to feel like the "How To Spend It" section of the *Financial Times*.

My own reaction to *Blue* and *Red* is to start hankering for Warsaw. So my favorite among the *Three Colors* is *White*, in which the homely, slightly rotund Zbigniew Zamachowski plays Karol Karol (basically Charlie Charlie), a Polish hairdresser living in Paris whose French wife (Julie Delpy) wants a divorce because, as her lawyer makes painfully clear in court, the marriage has never been consummated due to a failure of husbandly equipment. This is only the beginning of Karol's humiliation. By the

time he's begging for francs in the Paris subway, he is ready to accept the offer of a fellow Pole to return home in a way that makes flying coach look (relatively) comfortable. Crammed into a trunk, he suffers even worse when, upon its arrival in Warsaw, the trunk is stolen by a gang of thugs who, disappointed at Karol's lack of resale value, beat him severely and leave him for dead in the public dump. The best line in the whole trilogy comes when Karol wakes up covered in blood and garbage, looks around and says, "Home at last!"

Beauty is Strong

IF KIESLOWSKI HAD LIVED LONGER, IT would have behooved him to make more comedies, not more Frenchified art films. After completing *Red*, he announced that he was not going to make any more films, period. But he was also engaged in writing the screenplays for a new trilogy based on Dante's *Divine Comedy*. Only one of these has been made into a film—*Heaven* (2002), starring Cate Blanchett and directed by Tom Tykwer (who also directed *Run, Lola, Run*). It is an unholy mess, bereft of the *Decalogue*'s moral honesty, and not even postcard-pretty like *Three Colors*.

Because of this disaster, many critics have concluded that Kieslowski's art was an exotic, twisted plant unable to bloom without political repression and state censorship. But that conclusion is unfair. What does the magnificent example of Czesław Miłosz tell us, if not that Polish artists can thrive in freedom and even survive consumerism? A few lines from Miłosz's poem, "One More Day," provide a fitting tribute to Kieslowski:

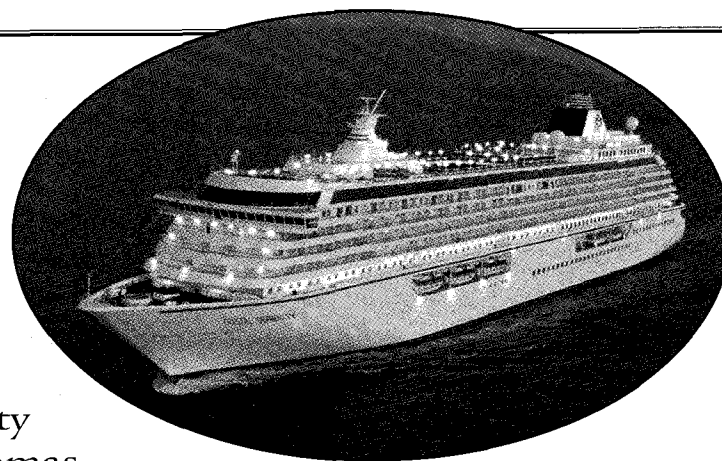
And though the good is weak, beauty is
very strong.
Nonbeing sprawls, everywhere it turns
into ash whole expanses of being,
It masquerades in shapes and colors that
imitate existence
And no one would know it, if they did
not know that it was ugly.

And when people cease to believe that
there is good and evil
Only beauty will call to them and save
them
So that they still know how to say: this
is true and that is false.

Martha Bayles, who teaches humanities at Boston College, is the CRB's columnist on television and film. She is writing a book titled *The Ugly Americans: Losing the Global Culture War*.

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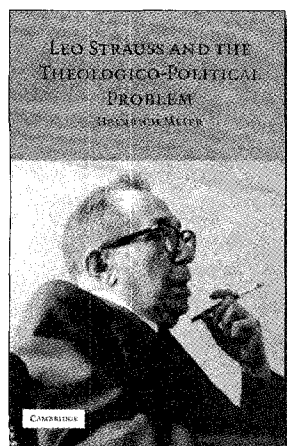
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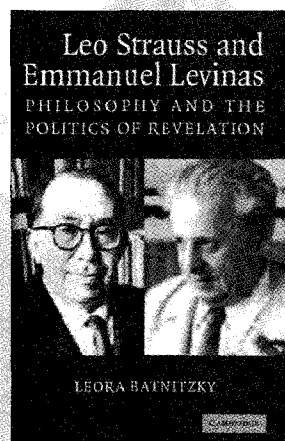


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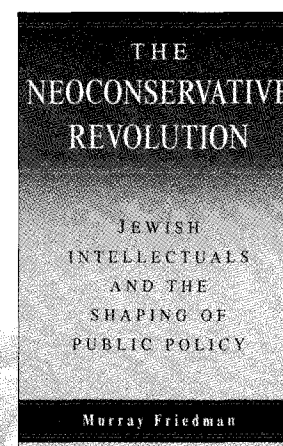
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